CONSIDERATIONS

ON

The DOUGLAS CAUSE.

[Price Two Shillings.]

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The DOUGLAS CAUSE.

IN A

LETTER

FROM

A Gentleman in SCOTLAND

TO

His Friend in LONDON.

Sed nescio quo modo plerique errare malunt, eamque sententiam quam adamaverunt pugnacissime defendere, quam sine pertinacia, quid constantissime dicatur, exquirere. CICERO.

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CONSIDERATIONS

ON

The DOUGLAS CAUSE.

SIR,

THE attention of the public has of late been much engaged by the important cauſe between the Duke of Hamilton and Mr. Douglas. It has been the prevailing topic of converſation, and has occaſioned diſputes and wranglings in almoſt every company. High and low, young and old, male and female, have intereſted themſelves in this cauſe with a warmth equally unprecedented and unaccountable. The pleaſure of ſociety was for a long time imbittered by altercation, and whole evenings, dedicated to chearfulneſs, were ſpent in ridiculous conteſt.

During this general agitation, the court of ſeſſion proceeded in their deliberations with all poſſible attention and impartiality. After examining the material witneſſes over and over again, weighing every circumſtance, and ſeeking light from every quarter, liſtening with the moſt patient attention to the propoſitions made by either party, and granting every rea-

ſonable demand, they at laſt, in the moſt ſolemn manner, determined finally againſt the defendant.

This cauſe, however, continuing to be the univerſal theme of converſation, and the occaſion of much animoſity, even after this ſolemn deciſion, I began to be almoſt aſhamed to remain any longer ignorant in a matter which every body pretended to underſtand. Though no lawyer, and unaccuſtomed to the reaſonings on judicial queſtions, I was encouraged to ſtudy the merits of this celebrated cauſe, perceiving that it turned entirely on matters of fact. It has been often my lot to ſerve upon juries; and I imagined that a cauſe depending not upon queſtions of law, but of fact, might be within my compaſs. I procured copies of the proofs and memorials on both ſides; and with theſe, and no other company, retired to the country, till I ſhould make myſelf maſter of every circumſtance relative to this queſtion.

Unconnected with the principal parties, and my friends pretty equally divided in their wiſhes, nothing remained to bias my judgment or inclination to either ſide. My curioſity too was excited by the diverſity of opinion among the judges themſelves. I could not help being ſurpriſed to find, that, in a mere queſtion of fact, ſo many men of ſenſe and learning ſhould differ ſo widely in their ſentiments; nor would I allow a ſolution of this difficulty to be drawn from the ſuppoſed connection of ſome of the judges with the parties.

I had

I had often indeed heard it urged, that two judges, who had given their opinion upon the plaintiff's ſide, had formerly been council in the cauſe; and that of the ſeven judges, who had voted in favour of the defendant, there were two who had taken the conduct of this cauſe, both at home and abroad, as his council and agents; two who had been appointed his guardians; and a fifth who, on account of particular connections with the defendant, had, during the whole courſe of the conteſt, abſtained from ſitting in judgment in this cauſe; and, after having declined himſelf in all the preliminary ſteps, re-aſſumed his judicative powers only at the final deciſion.

Theſe inſinuations had no weight with me; for I could not ſuſpect that men of character were influenced in the exerciſe of juſtice by any partial connection, or by any motives but thoſe ariſing from conſcience and duty.

The only way I could account for the oppoſition in opinion was, by ſuppoſing the caſe extremely intricate.—I imagined, that every argument on the one ſide was ſo nicely balanced by one of equal weight upon the other, that the judgment was kept long in ſuſpenſe; and that at length the final determination proceeded from the particular character or turn of thinking of the judge, more than from any real ſuperiority of argument, as we ſometimes obſerve people of great abilities draw oppoſite concluſions from the ſame premiſſes.

I proceeded therefore to the conſideration of the proofs and memorials with the utmoſt at-

tention, always remembering upon what exceeding ſlippery ground I was treading, where, out of fifteen judges, ſeven, or perhaps eight, had certainly ſtumbled; and where, of conſequence, I was in the greateſt danger of a fall.

Theſe conſiderations, at the ſame time that they warned me of my danger, animated my curioſity; and thus I began the inveſtigation with equal caution and keenneſs.

But how great was my ſurpriſe, when, contrary to the idea I had formed, inſtead of being puzzled in a labyrinth of difficulties, I found, upon an attentive peruſal of the proofs and memorials, that I was irreſiſtibly drawn into one plain road, which evidently appeared to be the ſtraight path of truth, and led to perfect conviction!—This to me had no dark or dubious appearance; for ſo many rays ſhone from every branch of the proof, as, being collected, made the plaintiff's concluſion manifeſt; whilſt no one circumſtance diſcovered itſelf through all the long reſearch that could reflect one beam of light to extricate the defendant.

His memorial is indeed executed with great ability. The ingenious gentleman, who framed it, has performed his taſk with much addreſs, and arranged ſuch materials as he had in the beſt order for the defence of his client. But, alas! the ableſt general cannot defend an untenable fortreſs, after all the defects of its works and ſituation are fully underſtood by a vigilant enemy.

Without

Without further preamble, I ſhall here ſtate thoſe circumſtances which, upon conſidering the proofs and memorials of both ſides, made the greateſt impreſſion on my mind.

The object of our inquiry is confined to this ſingle fact, *Whether, at Paris, on the 10th of July, in the year 1748, in the houſe of a Madame Le Brun, Lady Jane Douglas was, or was not, delivered of the defendant?*

In conſidering this point, the firſt thing that ſtruck me was, the general tenor of Sir John Stewart and Lady Jane's conduct from the time the firſt hint of her pregnancy was given at Aix-la-Chapelle, till the time of their reſpective deaths. The whole is unnatural, inconſiſtent, and incompatible with the notion of the defendant being their ſon. On the other hand, the whole is plain, uniform, and eaſily accounted for, in every particular, upon the ſuppoſition of Lady Jane's pregnancy and delivery being ſimulated.

Lady Jane Douglas having been 14 months married without any appearance of pregnancy, at laſt, in the 50th year of her age, obſerves the firſt ſymptoms of her being in that ſtate while ſhe is at Aix-la-Chapelle, in the year 1747. At this time ſhe knew that her brother, the Duke of Douglas, was diſobliged with her upon ſeveral accounts, and that her child, as ſoon as born, would be preſumptive heir to his eſtate. She muſt have known, that her bearing a child was an event in the higheſt degree

improbable: for though a few inſtances of prolific old women have of late been muſtered up, and publiſhed with great oſtentation; yet it may with truth be averred, that of women, from the age of 50 to 100, not one in 40,000, who have tried the experiment (counting from the Flood, and including Sarah) have been found capable of conceiving and bearing a child. And perhaps there is not, in that portion of time, a ſingle inſtance of a woman at that age bearing two at a birth.

As Lady Jane's pregnancy was moſt unlikely in itſelf, as the bad terms ſhe and Sir John were on with the Duke, would naturally render him ſuſpicious of their conduct, and as the advantages ſhe and her husband might reap from her producing children, would ſtrengthen theſe ſuſpicions, the moment Lady Jane perceived herſelf in this moſt unexpected ſituation, it evidently behoved her to take ſuch meaſures as would put the fact of her delivery beyond the poſſibility of diſpute. This might have been done, either by returning to Britain, or by remaining at Aix-la-Chapelle, where there were at that time numbers of Britiſh people to aſcertain the birth.——If Lady Jane had thought herſelf with child at this time, one of her good ſenſe would unqueſtionably have reflected and acted in this manner. But if her ſcheme was to ſimulate a pregnancy and delivery, the ſame good ſenſe would induce her to ſhift the ſcene, as ſoon as ſhe had impreſſed

preſſed upon the minds of a few people the notion of her being with child.

The facts, which in the courſe of this examination I ſhall have occaſion to ſtate to you, will appear ſo extraordinary, that poſſibly you may imagine them more allied to fabulous than real hiſtory. To avoid this ſuſpicion, and at the ſame time to aſſiſt you in your examination of the merits of this conteſt, when furniſhed with copies of the proofs and memorials, I ſhall, at the bottom of the page, as I go along, make references to thoſe paſſages of the proofs or memorials of either party, where the true ſtate of the facts or arguments are to be found. And to avoid too great a multiplicity of references, I ſhall generally refer to the memorials, becauſe there you will find collected the references to the various paſſages of the proofs which relate to the ſame ſubject.

After having wrote to Mr. Haldane, and others, that they intended to leave Aix-la-Chapelle, and go to ſome Proteſtant country for the benefit of the Reformed religion *, they immediately ſet out for Rheims, having firſt procured at Aix-la-Chapelle a credit on a banker at Paris †.

To give her friends in Scotland a falſe account of their route was highly prudent, upon the ſuppoſition they intended a fraud; becauſe, if they had told where they were really

* Purſuers Memorial, Part V. p. 26.
† Ditto, Part II. p. 61.

going,

going, letters might have been wrote to ſome people at Rheims or Paris, to obſerve their conduct; which at once would have blown up the plot. But to give a falſe account of the place of their deſtination, while they imagined that Lady Jane was actually with child, is abſurd, and altogether incredible.

Lady Jane, Sir John, and Mrs. Hewit, and two maid-ſervants, left Aix-la-Chapelle in May 1748, and arrived the firſt day at Liege; where ſome of her intimate friends then reſided, and where, if ſhe had then really been with child, there was every inducement for her remaining to be delivered; as in that populous city there was a great number of celebrated phyſicians, accoucheurs, ſurgeons, and midwives *. But to theſe conveniencies Lady Jane preferred, in the eighth month of her pregnancy, the fatigue and hazards of a journey from Liege to Sedan, and from thence to Rheims, paſſing by dangerous and difficult roads, through the rugged mountains of the Ardennes.

They arrive at Rheims in the beginning of June 1758. There they remain till the 2d of July; that is, till within eight days of the pretended delivery. What do they next?

Leaving the two maids behind them at Rheims, Lady Jane, with the reſt of the company, goes to Paris.——Good heavens! a delicate lady, in the 51ſt year of her age, at her full

* Purſ. Mem. Part II. p. 70.

time

time, in her firſt pregnancy, unattended by any ſervants, ſets out, at two o'clock in the morning, in a common ſtage-coach, upon a journey of above 100 miles, travelling three days from morning to night. Had they broke out of the dungeons of the inquiſition, or been eſcaping from a ſecond St. Bartlemy, ſuch deſperate flights as theſe, from Aix-la-Chapelle to Rheims, and from Rheims to Paris, might have been natural.

Well, but what reaſon do they give for this extraordinary conduct? Oeconomy made us leave Aix-la-Chapelle, becauſe the price of lodgings and proviſions was raiſed, on account of the approaching congreſs; and attention to Lady Jane's ſafety made us leave Rheims, becauſe there was no practitioner in midwifery at Rheims of ſufficient eminence to deliver Lady Jane.—*There's a come off for you, as Mr. Bayes ſays.*

How admirable the œconomy of theſe people, who ſo frankly endanger the ſafety of Lady Jane, and the preſumptive heir of the Douglas eſtate, in order to ſave a few ſhillings of expence at Aix-la-Chapelle! for ſhall we take it for granted, that upon an accurate calculation there was a balance of ſaving in their favour by the ſcheme of travelling about from place to place, with their whole family and baggage, ſome hundred miles; and yet how admirable their attention to Lady Jane's ſafety at a later period, when, though reduced to ſuch ſtraits, as not to have money ſufficient for carrying the

maid-ſervants along with them, they fly from Rheims to Paris, in order to get abler aſſiſtance for Lady Jane's delivery!

Rheims, the capital of a province, a city containing above 30,000 inhabitants, in which there is a college of medicine, and abundance of phyſicians, ſurgeons, and midwives *; and yet, for the difference between one of theſe and a Paris practitioner, in an operation which is performed almoſt with equal ſafety every where, a woman of ſenſe will undergo ſo much fatigue, and expoſe herſelf to ſo much danger.

What a ſuperior riſk did ſhe run of being delivered on the road!——She had ſat up all night till the hour the machine went off;——ſhe was crammed into it with eight other people;—the weather hot, and the carriage uneaſy †.

One cannot help feeling here for Lady Jane's diſtreſsful ſituation: yet the people who were in the coach with her, atteſt that ſhe never complained during the journey, and that none of them ſuſpected ſhe was either married or with child ‡.

If we believe her with child at this time, we muſt believe her devoid of common feelings, and her huſband devoid of common humanity; but if ſhe was not, her conduct was well judged, and abſolutely neceſſary.—Rheims, though large, and commodious enough for a

* Purſ. Mem. Part II. p. 104.
† Ibid. p. 110.
‡ Ibid. p. 113.

real

real delivery, was too narrow a place for a *falſe* one. Paris was the proper ſcene for ſuch an enterpriſe, where they might be beſt hid from obſervation, and find the readieſt means of execution in the concourſe of that populous city. —The ſtrange circumſtance of bringing the two maids along with them the whole length of the journey to Rheims, and then leaving them, when Lady Jane, going to be delivered, would have the greateſt uſe for them, puts us in mind of the ſagacious traveller, who, having ſubmitted to the incumbrance of a great coat during the courſe of the day, threw it off in the cool of the evening when it began to rain, and went the reſt of his journey without it, to prevent its being wet.

Having undergone all this fatigue, and run ſo many riſks for an eminent accoucheur, no body can doubt, that if they omitted to inform themſelves at Rheims, they will inquire among their acquaintance at Paris for the perſon of the higheſt reputation in this way, or at leaſt will inform themſelves of Mr. Godefroy, to whom they were recommended by the chief magiſtrate at Rheims. But in whatever way they inform themſelves, it is to be hoped ſome celebrated practitioner will be employed. All this you would moſt naturally expect would happen; but the very reverſe of all this did happen.

So far from acquainting Mr. Maillefer at Rheims of the motives of their journey to Paris, and conſulting with him about the aſſiſtance to

be got at Paris, they tell him, that the object of their journey there was to make ſome purchaſes *; ſo far from inquiring of Godefroy or his wife for a famous accoucheur, they do not ſo much as inform them that Lady Jane is with child †; ſo far from conſulting with their friends or acquaintance in Paris, they keep themſelves ſecreted from every mortal who had a chance of knowing them; and ſo far from applying to a man-midwife of eſtabliſhed character, they, by their own account, employ *a wandering Walloon ſurgeon*, who was never heard of before or ſince.

A Walloon ſurgeon! Who was he? How came they to be connected with him? O thereby hangs a tale.

As far back as the year 1721, Sir John was intimately acquainted with one Pierre La Marr at Liege, ſurgeon to a Walloon regiment.——He accidentally met with his old friend in the public walks at Paris, in the year 1748; and without giving himſelf any trouble to inquire further about accoucheurs, he at once, for old acquaintance ſake, engages this Pierre La Marr to deliver Lady Jane Douglas.

With what unheard-of inconſiſtencies do theſe people inſult the underſtanding of mankind! But come, let us take the ſtory as they give it, and make the beſt on't.

It is allowed, then, that Lady Jane might take a terror at the Rheims practitioners, and riſk

* Purſ. Mem. Part. III. p. 61.
† Ibid.

her

her life for the ſake of a Pariſian ſurgeon of eminence, and leave her two maids behind her at the very time ſhe moſt needed their ſervices, and bear the journey without complaining, and (though at her full time) not be obſerved to be with child by the mantuamaker, who refitted a gown for her at Rheims; by General Maclean, who handed her into the coach; by the paſſengers with whom ſhe travelled three days; nor by Godefroy or his wife, with whom, according to their own confeſſion, they lived ſome days upon their arrival at Paris. We ſhall alſo allow, that there was nothing ſingular in their fixing upon this Walloon to deliver Lady Jane.—Taking all this for granted, let us ſee how the ſtory proceeds.

You'll expect now that Pierre La Marr will go home, and live with them at Godefroy's, or Madame Le Brun's, to whoſe houſe it is pretended they went upon leaving Godefroy's, or at leaſt will inform Sir John very particularly of his lodgings, that he may be got at a moment's warning. — Not at all: this gentleman came to Paris *ſur une affaire epineuſe*; and although he appeared daily in coffee-houſes, and public walks, yet he would not intruſt his friend Sir John with the ſecret where he lodged: ſo that if Lady Jane had been ſeized with her pains in the night-time, he could not poſſibly have been found *; and even in the day-time they muſt have ſent in ſearch of him only to the coffee-houſes, ſtreets,

* Purſ. Mem. Part II. p. 154. and 155.

and

and public walks of Paris.—*Ah tantam rem tam negligenter agere!*

However, in ſpite of all this negligence, it is aſtoniſhing how fortunately things fell out. —Lady Jane, though in the fifty-firſt year of her age, has the *good fortune*, nevertheleſs, to become pregnant.—Though liable, upon other occaſions, to miſcarriages, as has been given out, yet has the *good fortune* to eſcape that accident in ſpite of long journies and great fatigue. When ſhe falls into labour, ſhe has the *good fortune* to find her *accoucheur* at once, though ſhe was ignorant where he lived.——In her circumſtances, a boy was preferable to a girl:—— ſhe has the *good fortune* to be delivered of a boy. —But one boy may chance to die, and diſappoint all her hopes: lo! ſhe has the *good fortune* to be delivered of a brace, *Primo avulſo, non deficit alter.* And to complete all this *good fortune*, ſhe at that dangerous period of life recovers of this double birth, in a ſhorter time than women of twenty-five years of age generally do of a ſingle child.

Lady Jane herſelf always avoided giving any detail of what paſſed at Paris, and was very ſeldom heard to mention any particulars relative to the birth of the two boys; yet being upon one occaſion preſſed by Lady Stair, whom ſhe could not decently refuſe, ſhe was ſenſible of the ſuſpicions her being delivered in a concealed manner by an obſcure man muſt have conveyed, and how inconſiſtent it muſt appear with the reaſon aſſigned for going to Paris;

and

and to make it probable, ſhe declared ſhe had fallen into labour within two or at moſt three hours after her arrival in that city; and ſhe ſaid ſhe was delivered before having an opportunity of concerting what was proper on the occaſion *.

The ſcrutiny that has ſince been made at Paris, obliges the defendant to give up this account, which otherwiſe was much more natural than that given by Sir John and Mrs. Hewit.

To avoid the ſtrange inconſiſtencies attending Sir John's ſtory of La Marr, the defendant's council were driven to a miſerable ſubterfuge indeed; that of rejecting, as mere falſehoods, all the particulars which Sir John had mentioned of the accoucheur, and at the ſame time inſiſting that the ſtory was true that he had delivered Lady Jane.

Sir John's examination was taken in preſence of the whole judges of the court of ſeſſion; he mentions all particulars relating to La Marr with the greateſt exactneſs and deliberation; the examination was continued three days; he was allowed as much time as he pleaſed to recollect himſelf, and even to retract any part of the evidence upon reading it over next day †: and, after all, the defendant is for rejecting this account of his ſuppoſed father as falſe. But if he has ſpoken falſely concerning the deliverer, muſt we take his word for the delivery? What now becomes of all the arguments of filiation? and

* Purſ. Mem. Part II. p. 163.
† Ibid. p. 147.

where

where is the force of the acknowldgement of a parent, who cannot ſpeak a word his own ſon can give credit to, when called upon in the moſt ſolemn manner, and even when it is to eſtabliſh that point which of all others they wiſh moſt to be believed?

There is no help for it: when people cannot get every thing as they would wiſh it, they muſt adhere to what will next ſuit them beſt. Now it ſeems there actually had been a man of the name of Louis Pierre Delamarre, who came to Paris firſt as an apprentice to his uncle a wig-maker, and afterwards applied himſelf to ſurgery, and had attended the Hotel Dieu, from which he was diſmiſſed for bad behaviour; and at laſt, having made a ſuitable enough match with a journeyman-taylor's daughter, he practiſed ſurgery in the very loweſt ſphere both in point of employment and reputation *.

The arguments againſt the probability of ſo obſcure a man as Sir John's Walloon being employed to deliver Lady Jane Douglas, apply here with double force.

Well, but there is reaſon to believe that the one did exiſt, whereas there is not the leaſt reaſon to think the other ever had a being.—— A dog, who died ten years ago, is better than a lion who never was created; and, upon this principle, the defendant's council have endeavoured to ſhake of their old friend the Walloon and attach themſelves to this *garçon chirurgien*.

* Purſ. Mem. Part IV. p. 5.

They

They have the better reaſon for doing this, that one Monſ. Menager (a gentleman who has rendered himſelf more remarkable than both the La Marrs taken together) declares, That the garçon La Marr informed him, that he had once delivered a foreign lady of twins. It is pity, however, it comes out in proof, that the ſtory upon which Menager's evidence is built, was told by La Marr to Menager, and his other companions, in the year 1746, while he La Marr was living at the Hotel Dieu, which he had left before the year 1747 *. I muſt refer you to the memorials, where you will find many curious particulars concerning this Mr. Menager, with his evidence at large. You will there find him ſtraining with many ineffectual efforts to make a connection between Louis's unknown lady and the ſtory of the defendant's birth, which it appears from the proof was well known to him before he was examined in this cauſe †.

A more arduous taſk was never attempted by ſophiſtry, than to reconcile Pierre La Marr the Walloon, ſurgeon to a regiment, Sir John Stewart's intimate acquaintance at Liege in the year 1721; and who was at Paris in the year 1748, upon a tickliſh affair, which obliged him to conceal the place of his abode; who afterwards went to Naples for his health; and who, in the year 1748, was towards ſixty years of age;—to make this the ſame man with Louis Pierre Delamarre the Frenchman, who was but ten years old in the year 1721, and only thirty-ſeven in

* Purſ. Mem. Part IV. p. 22. † Ib. p. 12, et ſeq.

the year 1748; never ſurgeon to any regiment; never at Naples, nor at Liege, nor any where out of France; and who was ſo far from concealing his dwelling, that, poor man, he ſtruggled all his life to make it better known.

The ingenious method deviſed by the brothers, in the Tale of a Tub, to accommodate jarring expreſſions, will not apply here. The two ſurgeons are not the ſame, either *totidem verbis*, or *totidem ſyllabis*; nor will they even do *tertio modo*, *totidem literis*. Perhaps the manner in which Captain Fluellan managed his compariſons between Henry of Monmouth and Alexander the Pig, may ſucceed better. "I "tell you," ſays that ingenious Welchman, "if you look into the maps of the orld, I war-"rant, that you ſhall find, in the compariſon "between Macedon and Monmouth, that the "ſituations, look you, is both alike.—There "is a river in Macedon; there is alſo more-"over a river at Monmouth: it is called Wye "at Monmouth; but it is out of my prains "what is the name of the other river: but it "is all one; 'tis as like as my fingers to my "fingers; and there is ſalmond in both."

Some ſuch likeneſs as this might, with a little ſqueezing, he found between Pierre La Marr the Walloon, and Louis Pierre Delamarre born at Montreuil ſur mer; eſpecially as it has been lately diſcovered that Montreuil, though ſituated ſur mer, has certain connections with a river which takes its riſe upon the ſame continent which contains the Walloon country.

In

In carrying on an impoſture, nothing is ſo dangerous as to mention any real perſons, who are, or have been, in exiſtence, as any way connected with the affair. Some circumſtances or other will always be found to attend real characters, which it will not be poſſible to preſs into the proper time and place. In a plot of this nature, the principal *dramatis perſonæ* ſhould always be of our own creation. Then *poetic truth* needs only be attended to.

There is one misfortune indeed which this plan is liable to, that no mortal but ourſelves can ever have been acquainted with thoſe people. But this is more than overbalanced by this great advantage, that we can make them apply to every time, every place, every action; and in caſe of any impertinent over-critical examination, if we are in good luck, we may meet with ſome obliging witneſs, who may ſwear he has ſeen them, or at leaſt heard ſomething about them.

Sir John Stewart was in the right to ſtick by his Walloon, as the accoucheur of Lady Jane; and it is plain, the defendant's council have hurt their cauſe, by endeavouring to give to Louis Delamarre the honour of an operation which certainly belonged to Sir John's intimate friend, honeſt Pierre. And I make no doubt, but ſome of the ſiniſter events which have happened ſince, were ſent as a judgment for this horrid piece of injuſtice.

The Knight did not always act agreeably to the maxim I have here laid down; and as often as he deviated from it, he threw matters

into perplexity and confuſion. Once, in particular, he was upon the point of being irrecoverably ruined, by mentioning real people inſtead of imaginary.

When Mrs. Napier, in the year 1756, inſiſted upon his giving her ſome particulars concerning the delivery, in a note wrote by his own hand he mentions Michel's houſe (a place where they had actually been while at Paris) as the ſcene of the birth. And Mrs. Hewit thereafter writes a letter to the Duke of Douglas to the ſame purpoſe *. As this account of the matter was given eight years after the event was ſaid to have happened, they probably imagined Michel's people might be dead; or, as they gave no particular addreſs to the houſe or ſtreet, that they might not eaſily be found; eſpecially as no body at this time had any immediate intereſt to make a ſcrutiny. But as ſoon as it was known that Principal Gordon had found Michel's houſe, and that all the people there declared there had been no delivery in that houſe, the ſcene is ſhifted in a moment, and the birth is transferred to the houſe of Madame Le Brun †, another ſightleſs ſubſtance, the twin ſiſter of Pierre La Marr; a houſe where women may be delivered before, as well as after marriage, of as many children as they pleaſe, without danger of detection by Principal Gordon, though he ſhould be aſſiſted in his inveſtigation by all the clergy of Paris.

* Purſ. Mem. Part II. p. 126. and 179.
† Purſ. Mem. Part II. p. 129.

The

The defendant's council contend, That there is nothing very extraordinary in this circumſtance, that Pierre La Marr and Madame Le Brun have never been diſcovered.—Here I have the misfortue entirely to differ from them; for I think it abſolutely incredible, and next to an impoſſibility, that Lady Jane Douglas could have been delivered by any ſurgeon whatever in Paris, of two boys, in preſence of the landlady of any houſe and her daughter, and yet that neither this ſurgeon, nor theſe two women, nor any perſon of their family, acquaintance, or neighbourhood, ſhould ever have been heard of.

Muſt not Sir John have known many circumſtances concerning this ſurgeon (with whom he intruſted his ſon for many months) which would have pointed him out ſo plainly, that thouſands now in Paris would have been able at once to recollect the man?—In the ſame manner the landlady and her daughter muſt have been long ſince diſcovered.—After all the pains which have been taken, many would have appeared who had known both, and who had heard them mention this remarkable event, of an Engliſh lady of quality being in their preſence delivered of twins.

Nothing can prove this aſſertion more clearly than what has actually happened in this very cauſe. Every perſon mentioned by Sir John, Lady Jane, and Mrs. Hewit, many of them in meaner ſtations than either La Marr or Le Brun, are ſuppoſed to have been; the

ſeveral houſes they ſtaid in from the time they left Britain till they returned; even the very ſervants they hired for a ſhort time, and others employed by them, have been all diſcovered: moſt of them are alive, and witneſſes in the cauſe; but where any have died ſince that time, all the inhabitants of the place where they lived declared with one voice their remembrance of them.

At Aix-la-Chapelle they firſt lived in the houſe of Madame Tewis; ſhe has correſponded with Sir John ſince he came to Britain; and her children, yet alive, have been examined in the cauſe. — They next went to Madame Scholl's who is ſtill alive.—Madame Gillieſen, with whom they next lodged at Aix-la-Chapelle, is alſo alive. — Madame Negrette, Baron Macgilligot, the nuns at Aix-la-Chapelle, and the abbeſs, all diſcovered, and witneſſes in the cauſe.—Madame Quibel, wife of the ſervant whom they had at the ſame place, is alive, and has many ſtories to tell which her huſband mentioned about them. — Madame Lampſon, the woman with whom they lodged three days at Liege, is alive, and her books extant.—Mathias Lambinon, another old ſervant, is a witneſs.—Monſieur Guenet, the notary, with whom they travelled from Charleville to Rheims, is alive.—Madame Hibert and her ſiſter, with whom they lodged at Rheims, during four weeks, before going to Paris, and their brother, the young Abbé Hibert, who, from his ſanguine expectations of Lady Jane's turning a good

good Catholic, paſſed many hours in her bed-chamber every day, have all been examined in this cauſe.—Madame Mayette, the woman with whom they ſtaid when they returned from Paris to Rheims, is a witneſs.—Mr. Querengal, receiver of the king's farms at Rheims, is a witneſs.—Monſ. Andrieux and his family, well known to every body.—Madame Sautrez, who refitted Lady Jane's gown at Rheims, but never ſuſpected her to be with child, is alive; ſo is her ſiſter.——Madame Vatry and her maid, and Madame Audry, with whom Lady Jane went from Rheims to Paris in the ſtage-coach, are alſo alive.—Monſ. Maillefer, the ſyndic of Rheims, who upon the 2d July 1748, gave a letter of recommendation for Sir John Stewart and his company, to Mr. Godefroy at Paris, is alive, and the original letter is extant.—Madame Maillefer, who often ſaw Lady Jane after her return from Paris, has alſo been examined.—Monſieur and Madame Godefroy, with whom they lodged upon their arrival at Paris, both alive, and witneſſes in this cauſe.—Monſ. and Madame Michel, with whom they lodged during the laſt part of their ſtay at Paris in July 1748, both alive.—Madame Blainville, who lived at Michel's with them, alſo alive; ſo is her daughter.—Madame Favre, who nurſed the defendant at Michel's, and afterwards went with Sir John and Lady Jane to Dammartin, and her huſband and his brother; Madame Mangin, the nurſe whom they found at Dammartin, and who attended them to Rheims,

Rheims, and Madame Daux, the letter-carrier at Dammartin, who ſometimes breakfaſted with Lady Jane there, are ſtill alive, and have been examined, with many more dwelling at different places where this company were while abroad.

In ſhort, it is the moſt unheard of inſtance of bad luck, that among ſuch a vaſt number of people whom they had occaſion to meet with while in France, and who are deſcribed in their ſtory, the only perſons who have never been diſcovered, are the only perſons who were witneſſes to the delivery.

Had one been loſt, ſuch a blank might poſſibly have paſſed; but that all the three who were preſent at the miraculous birth of the boys, and the whole of their connections, domeſtics, neighbours, and acquaintance, ſhould be beyond the reach of diſcovery, ſurpaſſes credibility. Indeed, it is in a ſuperlative degree unfortunate, that while every body elſe has been diſcovered, theſe material perſons cannot be heard of dead or alive: "*They, like* "*the baſeleſs fabric of a viſion, have left no trace* "*behind.*"

I return to the old queſtion, Are theſe things credible upon the ſuppoſition of a real delivery? No. But if there was no delivery, they could not have fallen out otherwiſe.

Sir John and Mrs. Hewit declare, That they arrived at the houſe of Monſ. Godefroy upon the

4th

4th July, and remained there ſome days *; and the defendant's council ſeem willing to allow, that the ſtay at Godefroy's continued till the 8th.

To this fact we are bound to give entire faith, ſince it is admitted, both on the part of the plaintiffs and of the defendant. But there happens to be a material difference between them as to the incidents after the 8th, and as to their plan of reſidence during ſeveral days ſubſequent to that date. The defendant, upon the authority of Sir John Stewart and Mrs. Hewit, maintains, That on the 8th they went to the houſe of a Madame Le Brun: That there Lady Jane was delivered, on the 10th, of the two boys, in preſence of Madame Le Brun and her daughter, and of Pier La Marr †: That this houſe having been infeſted with bugs, to which Lady Jane had a mortal averſion, ſhe inſiſted ſhe would ſtay there no longer, quitted her bed on the ninth day, and was ſo well recovered, that, with her uſual contempt of perſonal hazard, ſhe, on the ſame day that ſhe firſt got out of bed, ſallied forth from the houſe of Le Brun, and after travelling through ſeveral ſtreets, arrived at the houſe of Madame Michel in the fauxbourg St. Germain ‡.

The plaintiffs, on the other hand, maintain, That this intermediate reſidence in the houſe

* Mrs. Hewit's depoſition, Purſ. Proof, p. 252. G. Sir John's Declaration, prefixed to the Purſuers Proof, p. 2.

† Defend. M m. p. 167 *et ſeq.* and p. 173. *et ſeq.*

‡ Service, prefixed to the Defender's Proof, p. 12. C. & p. 34. E. Purſ. Proof, p. 183. F. p. 252. K. and p. 253. E.

of a Madame Le Brun is altogether imaginary: That no ſuch houſe or perſon ever exiſted: That in fact, upon the 10th of July 1748, the day of the pretended delivery, Lady Jane, Sir John, and Mrs. Hewit, were living, in good health, in the houſe of Mr. Godefroy, where, it is confeſſed, they arrived on the 4th of July, and where, the defendant admits, they continued till the 8th; but the plaintiffs, ſupported by the authority of Mr. Godefroy's books, and by the depoſitions of Mr. Godefroy and his wife, in conformity to theſe books, and uncontradicted by any oppoſite evidence, maintain, that the reſidence in the houſe of Mr. Godefroy continued from the 4th to the 14th of July, without interruption; and, conſequently, that it is impoſſible Lady Jane could have been delivered upon the 10th, in the houſe of a Madame Le Brun, or have reſided there during nine days ſubſequent to that date *.

Which of theſe two oppoſite propoſitions is moſt conſiſtent with probability or truth, ſhall in the ſequel be conſidered.

In the mean time, let us proceed to ſome facts which are not diſputed, and which, in point of time, ſucceed immediately to the interval between the 8th and the 10th July. We muſt only obſerve, in paſſing, that the compoſers of the drama have rather too much crouded the incidents of this interval: A change of reſidence from Godefroy's to Le Brun's on the

* Purſ. Mem. Part III. p. 60. *et ſeq.*

8th,

8th, a delivery of two children on the 10th, a confinement to bed during nine days thereafter in the houſe of this Madame Le Brun, and yet ſuch a ſudden recovery on the ninth day, that Lady Jane, upon getting out of bed, moves off inſtantly to a houſe in another quarter of the town, and where, as we ſhall ſee by and by, ſhe never has occaſion to go to bed ſooner than other people, and takes Mrs. Hewit for her bed-fellow from the firſt night of her arrival in theſe new lodgings *.

It is during this ſhort and dark interval alone, that La Marr is pretended ever to have made his appearance; for there are no traces of him at the houſes either of Godefroy or Michel †: And it is during the ſame interval, that, according to the accounts on the part of the defendant, much negotiation happened with a variety of nurſes for the two children; that one of them was *endoyé*, or ſprinkled by the *accoucheur*, and ſent to the country; and the other ſent, during two days and two nights, to the houſe of ſome unknown perſon at Paris.

If theſe facts be all true, one cannot help lamenting the hard fate of the defendant, that while every other leſs material perſon, circumſtance, and place of reſidence, have been traced, there ſhould not be a veſtige of evidence of the truth of any one fact aſſerted to have happened during this moſt eſſential period; nay, not the leaſt evidence, that the ſup-

* Purſ. Proof, p. 879. A. & p. 858 E.
† Ibid. p. 828. E. p. 832. G. p. 850. A. & p. 860. I.

poſed parents ever reſided in the houſe of a Le Brun, or that ſuch perſons as Le Brun or La Marr, or the nurſes ſaid to have firſt attended the children, ever exiſted.

But to purſue the thread of our ſtory, it is certain, that upon the 18th of July at lateſt, Sir John, Lady Jane, and Mrs. Hewit, entered to the houſe of Michel. This is eſtabliſhed by letters, and other pieces of evidence, which cannot be diſputed *. There they appear in good health and ſpirits.

When they firſt come to this houſe, they have no child; but they inform Michel's people, that the child is at nurſe in the country; and Sir John, Lady Jane, and Mrs. Hewit, ſet out in a hackney-coach next morning in queſt of it; and return with a boy, apparently three weeks old, upon the breaſt of a woman, who had no milk, but who was marked on the back as a common thief †. One would be apt to imagine, that at Paris there was as great a ſcarcity of nurſes, as of midwives at Rheims. This child being exhauſted with hunger, and inceſſant crying, Madame Michel immediately procures another nurſe. This nurſe (Madame Favre) deſcribes the appearance of the child, and particularly his dreſs; which ſhe ſays was very fine, all of it except the ſwaddling-cloaths, which were not of a piece with the reſt, but

* Summary prefixed to the Defender's Proof, p. 22. and Purſuers Memorial, Part III. p. 169

† Purſ. Proof, p. 849. F. 859. C. 875. B. 865. E. and 254. D; and Purſ. Mem. Part III. p. 159, *et ſeq.*

much

much coarſer, and ſuch as the loweſt people uſe for their children.

In July 1748, preciſely at the time that Sir John arrived at Michel's, a foreign gentleman, believed to be Engliſh, about the age of ſixty, applied to Marie Guinette, a poor woman, for two young male children, or in caſe two could not be got, one would be accepted of, to preſent to a lady, who had born male twins, both of whom were dead. Guinette propoſed this to a poor woman of her acquaintance, Madame Mignon, a glaſs-grinder's wife, who had been delivered of a ſon three weeks before. This woman and her huſband are perſuaded, upon various pretences, to give the child for ſome time at leaſt to the foreigner. Their child is carried to a bookſeller's ſhop, to have the cloaths changed, before it be preſented to the unfortunate lady who had loſt both her children. Madame Mignon undreſſes her child; but obſerves, the ſwaddling-cloaths which were brought by the ſtrangers to be too fine, and too weak to ſupport the reins of her child; therefore, when ſhe changes every other part of the dreſs, ſhe inſiſts upon her own ſwaddling-cloaths, of a coarſe kind of blanket, being retained *.

Permit me now to aſk, Whether does the child brought to Michel's, look moſt like the ſon of Lady Jane Douglas, or of this Mignon? Whether does the branded thief, without milk

* Purſ. Mem. Part III. p. 224. *et ſeq.* and p. 261.

in

in her breaſts, look moſt like a nurſe choſen by parents, and approved of by a ſurgeon; or like one picked up in the ſtreets in a hurry; and when they muſt have ſome body or other to perſonate a nurſe at Michel's? Whether does the delicate Lady Jane herſelf, arriving upon the 18th in good health, going out next morning, never confined to bed by any indiſpoſition at Michel's, and retaining the corpulent Mrs. Hewit for her conſtant bed-fellow *, in the ſultry month of July, look moſt like a woman who had been delivered of twins eight days before, or like a perſon who had not been at all in childbed?

Upon this part of the ſtory Mrs. Hewit has been convicted of wilful perjury: She ſwears, That Lady Jane kept her bed at Le Brun's till the ninth day was over †; and, while the fact was recent, ſhe writes a letter to the ſame purpoſe to the maids at Rheims ‡; and both ſhe and Sir John declare, That Lady Jane never went out of the houſe all the time they lived at Michel's, not ſo much as to take the air, till ſhe quitted Paris, and went to Dammartin in the end of July or beginning of Auguſt; yet it is fully proved, by a variety of evidence, That Lady Jane, Sir John, and Mrs. Hewit, went firſt out to fetch the child the morning after they entered §; then, ſome days after,

* Purſ. Mem. Part III. p. 169 and 175.
† Service, prefixed to the Defender's Proof, p. 12. D.
‡ Ditto, p. 34. E.
§ Purſ. Mem. Part III. p. 160.

they

they went with Madame Blainville to Verſailles, walked in the gardens, and returned the ſame day, being a journey of twenty-four miles; and that Lady Jane, with the ſame company, viſited the public ſquares in Paris *.

Theſe expeditions are eſtabliſhed with ſuch certainty, that it is not in the power of the greateſt ſceptic to deny them. When Mrs. Hewit, who could not poſſibly have forgot the only viſit ſhe ever paid to Verſailles in her life, and Sir John Stewart, thus concur in ſo groſs a perjury, what faith can any candid man give to their depoſitions or aſſertions in other particulars relating to the crime they were accuſed of, which their own reputation and ſafety required them to deny?

During all the time of the reſidence at Michel's there was no appearance of a ſecond child, nor any mention of him. No mortal at Michel's ever heard where Lady Jane had been delivered, or that ſhe had a ſecond child at nurſe. None of the perſons, either at Michel's or Godefroy's, ever ſaw the ſurgeon La Marr inquiring for Lady Jane, as it was moſt natural to imagine he would do. None of them ever heard of ſuch a man; nor did they ever hear Lady Jane, Sir John, or Mrs. Hewit, or any other perſon, ſpeak of a Madame Le Brun †. Yet now we are told, that the other child was at this time at nurſe; that he had

* Purſ. Mem. Part III. p. 175. Purſ. Proof, p. 866. I. 871, 872 874 851. E. 860. D. 876. I. Def. Proof, p. 588. A.

† Purſ. Proof, p. 828. E. 852. G. 832, A. and 860. I.

been

been committed to the care of La Marr immediately after he was born, being ſo weakly that his life was deſpaired of *.

It is acknowledged on all hands, and particularly by Sir John and Mrs. Hewit, that Lady Jane never ſaw the youngeſt twin from the moment of his birth, till ſhe returned from Rheims to Paris in Nov. 1749, ſixteen months after the period of the delivery †. What a picture of inſenſibility is here drawn! A mother intruſts her new-born babe, her tendereſt infant, to a ſtranger whom ſhe never had ſeen but once, to be nurſed by and live in the houſe of a woman whom ſhe never had ſeen at all.—She rides about the country, and viſits the public ſquares of Paris; but though her ſon Sholto was hard by Paris, as is pretended, ſhe never thinks of viſiting him.—Her breaſt never yearns towards her helpleſs child. It never comes into her head to examine how thoſe ſtrangers treat him, at a time when he languiſhes under the weakneſs of infancy and the agony of diſeaſe.—Every parent muſt here be convinced;—the voice of nature itſelf calls aloud,—This woman was no mother; ſhe had no child to viſit.

For my own part, I am of opinion it is leſs derogatory to the character of Lady Jane Douglas, to ſuppoſe her the original ſchemer of the whole impoſture, than to aſſert that ſhe behaved in this unnatural manner to her own infant.

* Def. Mem. p. 245. and Purſ. Mem. Part IV. p. 44.

† Mrs. Hewit's depoſition, Purſ. Proof, p. 255. L. Sir John's declaration, prefixed to the Purſuers Proof, p. 12. B.

Yet,

Yet, after this, the defendant's council are so hard preſſed for arguments, that they attempt to draw one from the tenderneſs and affection of Lady Jane for theſe children.—Affection diſplayed in letters : alas ! one viſit to Sholto at this period, would have evinced the feelings of a mother more than volumes of the moſt pathetic letters.

But the true key to this conduct is not want of affection on the ſide of Lady Jane, but the non-exiſtence of ſuch an object to diſplay it upon.—I am convinced Lady Jane Douglas (whatever her errors may have been in other reſpects) was of no inhumane or hard-hearted diſpoſition.—Long after this, when a ſecond child was procured, and when habit, with the helpleſs condition of the boys who had been raviſhed from their natural parents (and now depended alone upon Sir John's attention and her own) had taken ſufficient root in her mind, ſhe ſhewed them abundance of affection. ——Infants have a thouſand nameleſs and irreſiſtible ways of inſinuating themſelves into the hearts of thoſe who have the care of them ; and ſuch people as are really ſurpriſed at Lady Jane's fondneſs for theſe two boys, muſt be fortified by the coldneſs of their own conſtitutions againſt the influence of one of the moſt powerful of the human feelings.

An event ſo remarkable and propitious as Lady Jane Douglas's being ſafely delivered of two boys, one would naturally expect Sir John would delay no time in announcing to his

friends at Paris, and by letters to her and his own relations in Britain.—The real fact, however, is, that he informed no friend or acquaintance of the matter at Paris, but kept himſelf concealed in the moſt careful manner from the obſervation of every eye that might know him or Lady Jane during all the time they remained there * ;—and he gave no accounts of the delivery till the 22d July, when he writes to ſeveral of his friends. This was no leſs than twelve days after the æra of the birth ; and the letters he then writes, which were wrote at the time he lived in the houſe of Michel at Paris, he dates from Rheims ; and every expreſſion in all the letters correſpond with the ſuppoſition that Lady Jane and he were then at Rheims †.

What does all this caution, this ſculking, this deceit, indicate ? Had they been carrying on the moſt deteſtable treaſon, they could have taken no greater care to keep themſelves concealed. Do people go about innocent and laudable actions with the ſame ſecrecy they perform crimes ? If an unexpected piece of good fortune has happened, which they know will give pleaſure to every friend, is it natural to conceal this with as much attention as they would a ſiniſter event ?

* Def. Proof, p. 161. and 383. and Purſ. Proof, p. 804. 809. 56, 57, 58. 383. I ; Serv. p. 14. B ; and Purſ. Proof, p. 388 ; and Purſ. Mem. Part III. p. 187.

† Purſ. Proof, p. 62. * 63. * 65 ; Serv. p. 36 ; and Purſ. Mem. Part III. p. 205.

If

If Sir John had wrote a ſingle letter between the 10th and the 18th July, wherein he mentioned the delivery, it would have been a very ſtrong proof that the defender was not the child of Mignon, and that the plaintiffs hypotheſis was totally erroneous. Upon the 10th he wrote to Lord Crawfurd, and others; but ſpeaks nothing of the delivery; though, according to the accounts given, Lady Jane was delivered on the forenoon of the 10th, after having been ill all night. Theſe letters of the 10th are alſo dated from Rheims. But another ſtrange circumſtnnce is, that it appears Mrs. Hewit wrote a letter, dated the 11th July, to the maids they had left at Rheims; where ſhe ſays nothing of the delivery, and informs them Lady Jane was very well *.

I ſhall admit that there is nothing extraordinary in a woman miſdating a letter. But upon the 22d July, when the firſt accounts of the birth are given, Mrs. Hewit, writing again to the maids, informs them of their miſtreſs's being delivered on the 10th; and at the ſame time lets them know, in a poſtſcript, that the former letter, dated on the 11th, ſhould have been dated on the 10th. Ah, Mrs. Hewit! Mrs. Hewit! wherefore all this accuracy? None of your letters are remarkable for preciſion: why will you be ſo very exact on this ſingle occaſion? We do not expect in your letters the correctneſs of a bill of

* Serv. p. 34. B. & F.

exchange. In ſhort, Mrs. Hewit intended well; but ſhe outwitted herſelf; and what ſhe deſigned ſhould prevent ſuſpicion, is of itſelf an additional preſumption of fraud.

If after ſhe had wrote her letter of the 11th, ſhe had obſerved ir was wrong dated, ſhe would have corrected it before it was folded up; and if ſhe did not obſerve the error in the date at that time, how could ſhe poſſibly recollect it afterwards?

The circumſtance of no mention being made of Lady Jane's delivery ſooner than twelve days after it took place, is ſtrange and unaccountable if there truly was a delivery. But it was the moſt natural thing in the world if there was none: for Sir John would never venture to publiſh the birth till he was poſſeſſed of a child; and this, it ſeems, he could not procure ſooner than the 18th, when Mignon's child was carried off. The confuſion reſulting from this exploit, the finding a place to hide the child after it was ſtolen, before they could with propriety bring it to their own lodgings, the picking up a nurſe, the ſurpriſe occaſioned by this nurſe's being diſcovered to have no milk, might naturally occupy Sir John three days; ſo that he could not find time to write an account of the delivery ſooner than the 22d.

How they came at laſt to fix upon the 10th for the day of the delivery, although they knew that letters had been unluckily wrote that and the following day, giving no account of it, has been

been explained, in a moſt natural manner, in the plaintiffs memorial *. Lady Jane had arrived at Michel's on the 18th in perfect health, and had gone abroad next day, at ſix in the morning, in a hackney-coach, ſhe run a greater hazard from the chance of theſe facts, and her ſituation at Michel's, being detected, than from the chance of her being traced to Godefroy's on the 10th. Could ſhe then pretend that ſhe had been delivered any later than the 10th ? Eight days was ſurely little enough time for ſo complete a recovery. In ſuch a choice of difficulties, they were obliged to embrace that which to them ſeemed at the time leaſt hazardous : ſailing in ſuch a narrow ſea, ſurrounded with rocks, it is not ſurpriſing that they ſhould ſtrike upon Scylla, endeavouring to ſhun Charybdis.

The falſe dating of letters about the time of the delivery, the concealment of the journey to Paris, and the deceit employed for that purpoſe, was not confined to Sir John Stewart alone ; Lady Jane had her ſhare in theſe tranſactions ; her letters proceeded upon the ſame plan of diſguiſe.

She writes a letter to her brother, the Duke of Douglas, dated 8th Auguſt 1748 †, giving him the firſt accounts of her delivery. She was then living at Dammartin, where ſhe had recently arrived from Paris. — You would naturally expect, that in announcing this

* Part III. p. 135.
† Purſ. Proof, p. *64.

event

event to her brother, ſhe would mention to him that ſhe had been delivered at Paris, or would take ſome notice of her having been there; or at leaſt would date her letter from the place where ſhe was then actually reſiding. Inſtead of this, her letter is falſely dated from Rheims en Champagne. She ſays that ſhe had made choice of that place for the cheapneſs of living, and the goodneſs of the air; and the whole letter is calculated to make her brother believe ſhe was delivered at that cheap and ſalutary place.

Many other letters were written by Lady Jane, after her return to Rheims, to her friends in Britain, on the ſubject of her delivery, in all of which ſhe carefully conceals her expedition to Paris, and with much dexterity conveys to them the notion that ſhe was delivered at Rheims, and that ſhe had been obliged *to ſtop ſhort there* * in the ſummer 1748, when on her road to Switzerland, ſolely anxious, in the ninth month of her pregnancy, to reach ſome Proteſtant country, where ſhe could enjoy the free exerciſe of the Reformed religion.

This pious lady ſeems, from what I have heard in many companies, not to have met with the juſtice that is due to her. The whole honour of the contrivance and execution of the plot, is generally aſcribed to Sir John Stewart and Mrs. Hewit; both of whom are al-

* Purſ. Mem. Part III. p. 213.

moſt

moſt univerſally allowed to have been peculiarly adapted, by their character and ſtyle of life, for ſuch an undertaking: but in the courſe of my inveſtigations, certain infallible ſymptoms of Lady Jane's turn of mind have diſcloſed themſelves to my view, from which I ſhould have no heſitation to give her the preference to both Sir John and Mrs. Hewit in addreſs and enterpriſe. Whatever talents they might have, ſhe excelled them both in the arts of diſguiſe and diſſimulation.

The ſtrain of her letters, and her happy expreſſion, had captivated me ſo much at firſt, that I was tranſported with admiration of her, and could ſcarce allow myſelf to think amiſs of one capable of penning ſuch epiſtles; moſt of which, by-the-bye, have nothing more to do with the cauſe, than the letters of Madame Sevigny, or of Lady M. W. Montague.

In the progreſs of my inquiries, however, when I became better acquainted with the occaſions upon which theſe letters were written, and her ſelfiſh views in writing them, the precipitate admiration I had beſtowed was turned into ſtrong diſguſt.

Was there ever a higher picture of inſincerity, and of profuſe, and even abject flattery, indiſcriminately beſtowed upon people of all ranks, than what is exhibited to us in the letters and converſations of this courteous and inſinuating lady? Are there not inſtances of hypocriſy which ſtrongly mark the character? While ſhe is giving falſe accounts of the place

of her deſtination at leaving Aix-la-Chapelle, afterwards concealing her expedition to Paris, and while there dating her letters from Rheims, and conveying to her intimate friends the falſe notion that ſhe was delivered at Rheims, ſhe ſcruples not to aggravate this conduct, by aſſuming religion as a maſk, and colouring theſe tales with the pretence of her zeal for the Proteſtant faith.

What reliance can we have upon the piety of a perſon who can thus proſtitute what is moſt ſacred to worldly views?

One text in ſcripture ſhe ſeems faithfully to have ſtudied, that of *being all things to all men*; For while, to her Proteſtant friends, ſhe diſplays the utmoſt zeal for the Reformed religion, ſhe arranged her diſcourſe and conduct with her Roman-Catholic acquaintance in ſuch a manner as to induce them to think her at the bottom not far from their perſuaſion *.

In ſhort, from an attentive ſurvey of her whole conduct, ſhe appears to have been a perſon often wearing a maſk, and endeavouring to deceive others, by profeſſions of ſuperior piety and honour; while, in reality, her actions were on theſe very occaſions more regulated by her intereſt than by motives of religion or morality.

Her letter to Mrs. Carſe from Utrecht, in February 1747, to be found in the Purſuers Proof, p. 35, 36, 37, and 38, at the ſame time

* Def. Proof, p. 513. C, and p. 500. A.

that

that it affords a ſpecimen of this lady's talent for writing, gives us alſo great light into her genuine character. The firſt part of that letter is a ſpecimen of her talent for ſuperlative compliment, beſtowed indeed upon ſome very deſerving young men whom ſhe had met with at Utrecht; but who were then ſo young, and her acquaintance with them ſo ſhort, that it is probable ſhe would not have ſaid ſo much if ſhe had not expected that theſe paragraphs were to be read by her correſpondent to their relations in Scotland, whoſe friendſhip might have been of uſe to her.

In the ſecond part of the letter, Lady Jane, who is repreſented by ſome of the witneſſes *as a perfect ſaint, qui ne diſoit mal de perſonne* *, ſhews the keeneſt reſentment, with the greateſt ſeverity of expreſſion, againſt one of the moſt reſpectable characters ever known in this, or perhaps in any other country, I mean the late Lord Preſident Forbes, who, though repreſented by Lady Jane as having occaſion for expedients to *lull and ſooth his uneaſy awakened conſcience to reſt, on account of unjuſt ſentences pronounced by him* †, will ever be revered as an upright judge, and a true patriot.

The remaining part of that extraordinary letter exhibits a ſtrange picture of deceit and malignity. You will there find her tearing up the characters of ſome of her near relations, whoſe offence towards her was no more, than

* Def. Proof, p. 499. B.
† Her letter to Mrs. Carſe, Purſ. Proof, p. 36. E.

that they had ſaid, ſhe was married to Sir John Stewart. At this time ſhe had actually been married to him many months. But beſides indulging her reſentment againſt thoſe who had reported this fact, ſhe, in this letter, with the utmoſt diſſimulation, poſitively denies to her intimate friend the marriage.

This at leaſt can give no favourable notion of this lady's ſincerity: and when that virtue is wanting, what reliance can we have upon the other parts of the character? The beautiful addreſs to Sincerity, by the mother of an imaginary Douglas, in the play, which gives pleaſure to every audience, how would it have ſuited this lady, who claims to be the mother of a real Douglas *?

If arguments are to be drawn from Lady Jane's letters, would it not be as fair to inſiſt, that Lady Jane never was married to Sir John Stewart, becauſe, in February 1747, ſhe has, with great firmneſs and elegance of expreſſion, denied in her letters that ſhe was married, as to ſay, that ſhe could not have been guilty of the deceit with regard to the children, becauſe ſhe wrote of them after her return to Britain with all the language of maternal affection?

* *Tragedy of Douglas.*

——————————— Sincerity,
Thou firſt of virtues, let no mortal leave
Thy onward path, although the earth ſhould gape,
And from the gulph of hell deſtruction cry,
To take Diſſimulation's winding way.

The

The abſurdity of the arguments which you meet with in many companies, drawn from Lady Jane's profeſſions of piety, and from the elegant ſtyle of her letters, has unwillingly led me to this digreſſion. I ſay unwillingly; for where-ever it can be avoided, I wiſh to abſtain from every thing that is perſonal, and in our inquiry after truth, to carry it on with good humour.

I would even willingly believe, that the faults now diſcernible in Lady Jane's character, did not originally attend it; but that ſhe was drawn on gradually by her involved circumſtances, and her attention to this fatal project. It is amazing with what powerful ſophiſtry people can overturn ſentiments of right and wrong, when their minds are bent on any favourite ſcheme, and how imperceptibly they bring themſelves to approve what they earneſtly deſire!

Having conſidered the time that Lady Jane, Sir John, and Mrs. Hewit, arrived at Michel's, their behaviour there, the appearance of the nurſe and the child they brought along with them, their concealment from all their acquaintance, and deceiving their friends by making them imagine they were at Rheims, while they really were at Paris; having conſidered that no La Marr was known or ſeen to viſit them, no Le Brun mentioned at that time, no mention of another twin at nurſe; I once more demand, if all this does not perfectly agree with the plaintiffs aſſertion, That there was no de-

livery, no La Marr, no Le Brun, no child ſooner than the time Mignon's was ſtolen, and no younger child at this time in their poſſeſſion?

Let us keep company with them while they remain in France, and return with them to Britain, every circumſtance will continue to confirm and illuſtrate this hypotheſis.

They go back to Rheims with the child, in Auguſt 1748; and now their conduct was very different from what it had been when they were formerly there. Lady Jane was made acquainted with ſome of the principal people of Rheims. There was no concealment now. The child they brought along with them was publicly baptized in one of the churches, according to the rites of the Roman-Catholic religion. There was ringing of bells, money diſtributed to the populace, and a ſplendid entertainment given, which, in the courſe of one day, muſt have exhauſted all the money they had ſo prudently ſaved while at Paris *.

Their œconomy while there was truly admirable: ſo far from imitating the example of the extravagant Britiſh, who repair to that metropolis, they choſe the moſt obſcure lodgings, had no ſervant to attend them, abſtained from the company of every friend or acquaintance, beſpoke no nurſe before the delivery, made choice of an *accoucheur* on account of his cheapneſs, and, from an attention to frugality, had not even a ſick nurſe to attend Lady

* Purſ. Mem. Part III. p. 204. and 205.

Jane's

Jane's perſon after her delivery. Muſt we not applaud that parſimony which afforded them the means of cutting ſuch a figure at Rheims immediately thereafter?

If the Knight was profuſe upon the elder, he balanced his accounts by his parſimonious manner of rearing the younger. Surely no child ever coſt a parent leſs than Sholto did Sir John at this period, and till he was ſixteen months old. The methods of ſupporting a child contrived by Sir John, upon this occaſion, had this peculiar advantage, that it could not poſſibly die till the parents inclined, nor live a moment after they wiſhed it dead.

They remain ſixteen months at Rheims after their return from Paris. They correſpond with their friends at Paris by letters, particularly with Chevalier Johnſton, a relation of Mrs. Hewit's, who lived in Paris all that period, and who had attended them from Britain to Holland, and lived with them there a conſiderable time *. Lady Jane herſelf ſometimes wrote to this gentleman, who appeared to have a great attachment to the family, lay under great obligations to Lady Jane, and would have been proud to have been employed in any ſervice he could have performed for them. Unqueſtionably then you muſt imagine one principal ſubject of correſpondence will be their ſon Sholto. They will deſire Mr. Johnſton to make frequent viſits to him in the abſence of

* Purſ. Proof, p. 804. I.

his

his parents, and beg of him to write particularly how the child is, and give a faithful account how Monſ. La Marr and the nurſe tend him in his delicate ſituation.

Here, however, you happen again to be out in your conjectures. Poor Sholto is never taken notice of in theſe letters. Chevalier Johnſton was not ſo much as informed that there was ſuch a child at nurſe *. Sir William Stewart and his lady, and all Sir John and Lady Jane's other friends at Paris, were in the ſame ſtate of ignorance †.

Paris is a place that affords many more agreeable amuſements than to viſit children or nurſes; and Sir John, his lady, and even Mrs. Hewit, it ſeems, were too polite to trouble their friends with ſuch impertinent requeſts. They truſt entirely to the faithful La Marr. He was a very old friend of Sir John's. They were acquainted ſeven-and-twenty years before this time at Liege.

One conſideration which makes their intruſting La Marr with their child the more extraordinary is, that he remained at Paris upon account of ſome hazardous affair, which made him afraid to inform any body of his lodgings, even his friend Sir John, who put ſuch confidence in him. What if during the ſixteen months in which he had the ſole care of Sholto, he had been obliged to fly upon account of his

* Mr. Johnſton's depoſition, Purſ. Proof, p. 807. G.
† Purſ. Mem. Part III. p. 190. *et ſeq.*

affaire

affaire epineuſe? What if his lodgings had been diſcovered, and he had been taken up, and thrown into the Baſtile, or ſome other priſon? Or ſuppoſing he had died, what then would have become of the child, when no body remained to inform them where it was? Can any perſon of common ſenſe and natural affection believe, that parents would intruſt their ſickly child with a man in this ſituation? It will never go down. This is too much iron even for the digeſtion of an oſtrich.

At length, however, having given ſufficient proof of his confidence in his old friend, Sir John determines to return with his family to Britain. Perhaps ſome people in this ſituation would have contented themſelves with writing to Monſ. La Marr, to ſend the child they had never ſeen, and the nurſe, by ſome proper conveyance to Rheims. Had Sir John done this, it would have ſaved Lady Jane and himſelf the trouble and expence of a ſecond journey; and it would alſo have had this good effect to convince the world that they actually had a child at Paris previous to their journey. But as if their deſign now was to make amends for their former inattention to Sholto, they would not intruſt any other mortal to attend him, but reſolved to go themſelves upon this expedition.

In a late inaccurate publication, there is an obſervation, no doubt injurioufly put into the mouth of a learned judge, *viz.* That the leaving the maids at Rheims upon the firſt journey, was to him a proof that there was no fraud

fraud at all in the whole matter. Whether Sir John Stewart had any prophetic idea that there might be a law-ſuit upon this affair, and therefore was at pains to attend to every circumſtance that might exclude the ſuppoſition of an impoſture, I ſhall not take upon me to aſſert; but if he had, it muſt be acknowledged, he has, upon this occaſion, acted with uncommon circumſpection: for in this, as in the former jaunt, he took care to leave both the maids behind at Rheims; and he, Lady Jane, and the inſeparable Mrs. Helen Hewit, ſet out for Paris about the 11th or 12th November 1749, in a borrowed chaiſe, with no ſervantbut the driver.

They arrive at an inn called La Vilette, within an Engliſh mile of Paris, about the 14th or 15th of the ſame month. Here they leave their carriage and the driver, with inſtructions to remain till they returned; and having procured a hackney-coach, they drove to Paris *.

At this very time, a gentleman, about the age of 60, calling himſelf Duvernes, an Iriſhman, with two ladies, one of whom he ſaid was his wife, and the other his ſiſter, arrived in a hackney-coach, without a ſervant, at the Croix de Fer, St. Denis-ſtreet. He applied to the curé of St. Laurent for a liſt of the people in his pariſh, who were very poor, and had numerous families of children, upon pretence that

* Purſ. Mem. Part III. p. 214. and 277.

a lady of condition had an inclination to educate and bring up a young child of poor parents.

Not having obtained the liſt from the curé, Mr. Duvernes applied in the next place to the ſiſters of the charity; who ſent a woman, Madame Legris, to accompany him in his reſearch. This woman, yet alive, and examined in the cauſe, conducted him to ſeveral houſes where there were numbers of children. He paid no attention to female children; and having viſited many families before he found a young male child to his mind, he was at laſt conducted to the houſe of one Sanry, a rope-dancer, who had ſix boys and two girls. After reconnoitring the elder children of the family, he inquired for one ſtill younger, and was ſhewed one about twenty months old, of a delicate make, and of a fair complexion. He examined this child with approbation: returning next day, he told Sanry's wife the ſtory of the charitable lady, and gave her ſome money, that ſhe might yield the more readily to this lady's deſire.

After a negotiation of two days, in the courſe of which many fair promiſes and falſe pretences were made uſe of, the poor deluded parents were prevailed upon to truſt the education of their child to theſe ſtrangers; and the child was conducted by the parents to the inn at the Croix de Fer, where Mr. Duvernes, with his two ladies, lodged.

Sanry and his wife returned there next morning; but with grief and aſtoniſhment

learned that theſe three foreigners had, in the night-time, carried off their child in a hackney-coach *.

At this very time Sir John Stewart, Lady Jane, and Mrs. Hewit, after a ſtay of about eight or nine days at Paris, without their driver knowing any thing about them, returned in a hackney-coach to the inn at La Vilette, where they had left him with their carriage. They brought along with them a young male child, and, ſetting out immediately, returned to Rheims upon the 24th or 25th of November.

This is the firſt time that Sholto made his appearance. He was of a more delicate make than his brother, and of a fairer complexion; and in this particular looked liker a child of Sir John Stewart and Lady Jane Douglas, who were both remarkably fair; whereas the defendant's complexion is ſwarthy, and his eyes of a very dark colour.

Thoſe who inſiſt ſo much upon the reſemblance of Sholto to Lady Jane, becauſe he had a fair complexion, blue eyes, and was of a delicate make, ought to remember, that in theſe particulars he anſwers perfectly to the deſcription of Sanry's child; and that the defendant, ſo very unlike his twin-brother, and bearing no reſemblance to Lady Jane or Sir John, agrees, in point of complexion, and co-

* Purſ. Mem. Part. III. p. 272. *& ſeq.*

lour

lour of eyes, with the deſcription of the family of Mignon *.

It muſt alſo be kept in view, that it appears from the proof, enlevements, or kidnappings of children, are at Paris, as in other parts of the world, extremely rare, not above one or two inſtances in a century; and as it is eſtabliſhed with great certainty, that the enlevement of Mignon's child happened during the only three weeks of the year 1748 that Sir John and Lady Jane were at Paris, and that of Sanry's child during the only nine days of the year 1749 that they were again in that capital, Sir John and Lady Jane muſt have been moſt unfortunate travellers if they had no concern with either of theſe enlevements; and to complete their bad luck, the circumſtances attending each of theſe kidnappings of children, where ſuch as correſponded moſt ſupriſingly to the ſituation and wiſhes of Sir John Stewart and Lady Jane Douglas †. In ſhort, to ſuppoſe that theſe, and all the other ſuſpicious circumſtances with which the hero and heroine of our piece are conſtantly aſſailed, ſhould have happened conſiſtently with their innocence, is to ſuppoſe the intervention of a miracle, nay of a continued ſeries of miracles.

All this while ſuſpicions were thown out in Britain, that the whole ſtory of Lady Jane's delivery was a falſehood, and that both the boys were ſuppoſititious. Theſe ſuſpicions were

* Purſ. Mem. Part. III. p. 263.
† Purſ. Mem. Part III. p. 295.

immediate,

immediate, as ſoon as the birth was declared; and Sir John and Lady Jane were acquainted of them from the beginning *.

Is it not therefore aſtoniſhing, that they did not bring ſuch authentic proofs and atteſtations of the birth as would at once have ſtopped the mouth of calumny? This could have been done with the greateſt eaſe. Pierre Le Marr, Madame Le Brun, and her daughter, were all alive at this time, if ever they had a being. This ſurely was a duty which would have occurred to the mind of every rational creature, after they were informed of the rumours which were ſpreading every where to their prejudice. —It was a duty they owed to their children, to their relations, to the Duke of Douglas in particular, and above all to themſelves.—It is impoſſible to account for or excuſe this omiſſion upon the ſuppoſition that there was a real delivery; but if there was none, the omiſſion accounts for itſelf.

When they arrived in Britain, they found the ſuſpicions of the childrens being ſuppoſititious ſtrong and univerſal; yet they affect to deſpiſe them, and will take no ſtep to remove them.

This is not reconcileable to human nature: no man or woman on earth ever quietly ſat down under ſuch calumny, if it was in their power in a moment to quaſh it, and to put their characters in a fair point of view to the

* Purſ. Mem. Part VI. p. 1. *& ſeq.* and Purſ. Proof, p. 299. B.

ſatisfaction

ſatisfaction of mankind. But if it had been poſſible for them to neglect this on their own account, yet a father and mother could never ſuffer that their innocent children, the heirs of ſuch great expectations, ſhould be branded as a ſpurious offspring, if it was in their power to evince the contrary.

Notwithſtanding, it is certain that Sir John and Lady Jane, when puſhed by their friends to give authentic and ſatisfactory evidence of the birth of their children, for a long time evaded the ſubject, and reſted the whole upon general aſſertions.

At laſt, however, perceiving that this behaviour rather augmented the ſuſpicions; that pathetic expreſſions and ſtrong averments would not ſatisfy the world, they were driven to attempt ſome proof of a more convincing nature.

Here, no doubt, you imagine, that they will write to Sir William Stewart, Principal Gordon, Chevalier Douglas, Chevalier Johnſton, or ſome other perſon of character in Paris, to get authentic atteſtations of the delivery from Monſ. La Marr, with the teſtimony of Madame Le Brun and her family; or that they would write to Monſ. La Marr or Madame Le Brun themſelves; or at leaſt to Monſ. and Madame Godefroy, or to Monſ. or Madame Michel, appealing to them for the knowledge they had of the facts, and of their intermediate reſidence in the houſe of a Madame Le Brun. No. They never write a ſyl-

lable

lable to Paris on the ſubject. But, inſtead of this, they apply to Madame Tewis, their firſt landlady at Aix-la-Chapelle. They knew, that this woman had believed Lady Jane to be with child while in that place; and therefore Sir John and Lady Jane write conjunctly an earneſt cajoling letter, in the year 1750, informing her how they were calumniated, and begging ſhe would procure as many teſtimonials of the appearances of pregnancy as ſhe could *. This requeſt Madame Tewis immediately complied with: and upon theſe appearances, thus certified, joined to their own aſſertions, and thoſe of Mrs. Hewit, they reſt their cauſe.

Here was truly a ſtrong and moſt convincing proof!———Suppoſe a man accuſed of robbery on the highway; many ſuſpicious circumſtances are againſt him, and alſo the direct teſtimony of two witneſſes: This is all nothing, ſays he; I will bring a proof which can overturn all that in a trice, and eſtabliſh my innocence beyond diſpute. Well, his friends believe he is about to bring an uncontrovertible evidence that he was *elſewhere* at the time the fact was committed. But, inſtead of this, he gets ſome people to declare, they were very well acquainted with his father, who was an honeſt man, and had educated him in the principles of the Chriſtian religion, which forbids robbery; and therefore it is plain, the ſon could not commit the crime of which he

* Purſ. Mem. Part II. p. 41.

was accuſed. If this man could have proved an *alibi*, would he have reſted his defence on the character of his father? If Sir John Stewart had been conſcious that Lady Jane was delivered at Paris, would he not have applied to the people who were preſent, and not depended wholly upon the opinion of thoſe who had only ſeen Lady Jane ſeveral months before the birth happened?

But indeed he did not truſt entirely to this: four letters from Pierre La Marr himſelf were alſo exhibited, wrote to Sir John, informing him moſt minutely of the time when the delivery happened, of the number and ſtate of the health of the children when they were born, and of the great riſk the youngeſt run of departing to the other world, without the eſſential ceremony of baptiſm, which Monſ. La Marr declares he was obliged to perform himſelf *.

To

* *Engliſh tranſlation of the fourth letter of Pierre La Marr to Sir John Stewart.*

" Sir, *Paris, June* 9, 1752.

" I received yours ſome time ago; by which I am glad to
" learn, that the twin-brothers, of whom I had the good for-
" tune happily to deliver madam, your dear ſpouſe, on the
" 10th July 1748, are well; eſpecially the youngeſt, Sholto-
" Thomas, for whom there was ſo much to fear, having
" come into the world ſo weak, that I was obliged to perform
" alſo the office of the prieſt, leſt he ſhould have departed
" for the other world, without that ceremony, ſo eſſential.
" I beg you would be pleaſed to make my moſt humble com-
" pliments to Madam Stewart, your moſt dear ſpouſe, and to

" Mademoiſelle

To be ſure, nothing can be imagined more *a propos* than this letter of honeſt Pierre; for though Sir John was upon the ſpot when thoſe particulars happened, yet they might have eſcaped his memory at the diſtance of four years. It is a thouſand pities, however, that theſe four ingenious epiſtles are one and all of them now diſcovered and admitted to be forged, and that it is clear they were forged by Sir John Stewart himſelf, with the knowledge and participation of Lady Jane Douglas *.

Sir John and Lady Jane had been often told, that the moſt convincing proof they could bring of the truth of the delivery, was, an authenticated atteſtation from La Marr, the ſurgeon; to ſupply the place of which, four fa-

" Mademoiſelle Hewit, my aſſiſtant; and to be perſuaded, Sir, " that I have the honour to be your moſt humble and moſt obe- " dient ſervant,

" PIERRE LA MARR."

" *P. S.* Since your departure, I have made the tour of Italy, " and a ſtay of ten months at Naples, which has done a great " deal of good to my breaſt; and I found the ſulphureous air " of Naples ſo balſamic in relieving my breaſt, that I am deter- " mined to return thither ſoon. I only wait the favourable oc- " caſion of finding a friend to accompany me in my journey.

" This letter will be delivered to you by Monſ. Du Bois, my " intimate friend, who goes to ſettle in London to paint in mi- " niature; if you can aſſiſt him to find employment, you will do " me, Sir, a ſenſible pleaſure."

(Directed) *To Colonel Stewart at London.*

* Purſ. Mem. Part II. p. 158. *& ſeq.* & 165.

bricated

bricated letters, found in the repoſitory of Lady Jane Douglas, are produced, at the defendant's ſervice, as proof of his filiation.

Once more I aſk, Do not all theſe things indicate the whole to be one continued ſcene of impoſture and deceit? Are they not incompatible with the notion of a real delivery?

To write to friends we are going to one place, while we are determined to go elſewhere; to ſkulk from one houſe to another, at the moſt critical and important period, and to remain concealed from the eye of every acquaintance; to deceive correſpondents, by dating letters falſely; to give various and oppoſite accounts of the ſame facts; and, finally, to forge letters in ſupport of our ſtory: I demand, Whether ſuch actions are allied to truth, or to fiction? Is it poſſible to conceive a ſtronger and more convincing proof againſt the pretenſions of the defendant than is formed by all theſe concurring circumſtances?

This amazing aſſemblage of different facts, all pointing one way, I freely acknowledge, perfectly convinced me, and left not the ſmalleſt ſhadow of doubt upon my mind.

But if you are not ſatisfied, if you ſtill inſiſt upon direct, and what is called poſitive proof, that you may alſo have.

The defendant's pretenſions muſt totally depend upon the truth of this aſſertion, That Lady Jane was delivered of him and of his twin-brother upon the 10th of July 1748, in the houſe of Madame Le Brun, in preſence of her

and her daughter, and of Pierre La Marr, the accoucheur.—Now, if it can be ſhewn that Lady Jane, on the 10th of July 1748, did actually reſide in another houſe at Paris, and that there was no delivery in that houſe, I fancy it will be allowed, that from thence there ariſes mathematical evidence of the falſehood of the pretended delivery.

Such proof there is in this cauſe. I hold it to be proved in the moſt unqueſtionable manner, that upon the 10th of July 1748, as well as during ſeveral days before and after that date, Lady Jane Douglas, with her huſband and Mrs. Hewit, reſided at the Hotel de Chalons, Rue St. Martin, in the houſe of Monſ. and Madame Godefroy, who are both alive, and keep the ſame hotel at this day.

This *alibi*, of itſelf ſo deciſive of the cauſe, is eſtabliſhed by the houſehold and police books of the hotel, and by the depoſitions of Monſ. and Madame Godefroy in conformity to theſe books, and by a variety of circumſtances all tending to confirm the ſame fact; while, on the other hand, there is not the ſmalleſt article of evidence that they ever reſided in the houſe of a Madame Le Brun, nor any evidence that ſuch houſe or perſon ever exiſted; nor is there one circumſtance on the defendant's ſide to put in the ſcale againſt the books and teſtimony of Monſ. and Madame Godefroy, other than the aſſertions of the perſons who are themſelves accuſed of the crime.

In a ſhort ſketch, ſuch as this is, which means

means only to give a general view of the merits of this conteſt, it is impoſſible to give any juſt notion of the contents of thoſe parts of the papers in the cauſe which relate to the reſidence at Godefroy's. Beſides the large portions of both memorials allotted to this branch, both parties gave in to court additional papers under the title of, *Excerpts from Godefroy's Books*, with many obſervations, and much reaſoning on the ſubject.

To attempt an abridgment of the memorials and additional papers of either party on this branch of the cauſe, would be to do them great injuſtice. I muſt therefore beg leave to recommend the peruſal of both memorials, and of the additional papers, in relation to the reſidence at Godefroy's, to all who wiſh to attain the knowledge of the truth. The defendant's memorial, from p. 349. to p. 424. chiefly relates to this ſubject. A great part of the plaintiffs memorial is employed on this branch of the cauſe, from p. 59. Part. III. to p. 154. And I will venture to aſſert, that every reader, who has any taſte for clear and juſt reaſoning, will find himſelf both entertained and convinced by the obſervations upon the facts, and the ſtrength of argument which is there laid before us with the utmoſt ſimplicity and candour.

The additional papers given in by both parties on this ſubject, merit alſo the peruſal of every perſon who wiſhes to inveſtigate the truth. I ſhall only ſay, that after the moſt

attentive conſideration of all that has been publiſhed on both ſides, the reſidence of Lady Jane Douglas, with her huſband and Mrs. Hewit, at Mr. Godefroy's houſe, from the 4th to the 14th of July 1748, appears to me eſtabliſhed with a degree of evidence that approaches to demonſtration.

I have now given you a ſhort ſketch of thoſe parts of the proof in this great cauſe, which conſtrained me to agree with the plaintiffs in their poſition, *That the defendant is not the ſon of Lady Jane Douglas.*

WHAT has the defendant to oppoſe to this ſtrong unbroken phalanx of circumſtances, all ſupporting one another againſt his pretenſions, and proclaiming the juſtice of the plaintiffs cauſe? Nothing but the aſſertions of the parties accuſed of the fraud, and what *they* call a proof of Lady Jane's pregnancy.

A proof of pregnancy I look upon as a contradiction in terms. A thing can never be proved by human evidence, which is beyond the reach of human knowledge.—One may as well undertake to prove that there will be rain to-morrow, becauſe it is cloudy to-day, or any other thing which in its very nature is uncertain.

Appearances may form a preſumption, but can never be admitted as a proof.—Repeated experience evinces, that there is no infallible proof of pregnancy, but actual delivery.—In this very cauſe two phyſicians and two ſurgeons

geons have ſworn to this opinion * ; and I am informed, that medical writers of eminence in all ages and of all nations agree in the ſame poſition.

But not to have recourſe to ſuch learned evidence, I appeal to the experience of every body, if they do not know inſtances where phyſicians, ſurgeons, midwives, and the woman herſelf, who was ſuppoſed pregnant, have all been miſtaken.

If then a woman, who has borne children, and conſequently has experienced the real ſymptoms, may be miſtaken, and imagine herſelf with child when ſhe is not; if ſhe may remain in this miſtake during the whole of the nine months allotted by nature for pregnancy; if ſhe may be confirmed in her miſtake by the phyſician, ſurgeon, or midwife, who attends her; if both ſhe and they ſolicitouſly wiſh not to deceive, or be deceived; and, to avoid this, if ſhe admits them to every method of inveſtigation; if all this *may* happen, and in many caſes *has* happened, from the equivocal nature of the ſymptoms of pregnancy, how abſurd is it to aſſert, that the opinions of a few people, who have had tranſient views of Lady Jane, and whom ſhe intended to impreſs with the notion of her being with child, making uſe too of a particular dreſs, well calculated for ſupporting equivocal appearances, ſhould form a proof that ſhe actually was with child?

* Purſ. Mem. Part II. p. 2.

Although

Although Lady Jane had called medical aſſiſtance at Aix-la-Chapelle, or at Rheims; though people of experience and reputation in the buſineſs of midwifery had attended her while in theſe cities, and, upon examination, had all given it as their opinion, that ſhe was pregnant; even this would not have been uncontrovertible proof that ſhe really was ſo. Much leſs can the notions of thoſe, who have no experience or knowledge in ſuch matters, prove a fact of this nature. And the extraordinary circumſtance, ſo well atteſted in the proof, that at no period of the pregnancy did ſhe ever conſult with any phyſician, ſurgeon, or midwife, about her ſituation, muſt certainly add great weight to the hypotheſis of the plaintiffs *.

By the far greateſt number of the witneſſes, who imagined Lady Jane to be with child, had this idea previouſly inſinuated to them by Mrs. Hewit, by Iſabel Walker, or by others, who originally received the hint from them. After this, it was moſt natural for them to believe the woman in the ſtate her confidents gave out. Why ſhould they doubt it? Moſt of them were unacquainted with Lady Jane's real age; ſhe appeared a younger woman than ſhe was; and it is not to be queſtioned, ſhe would aſſume ſuch an appearance before *them*, as would confirm them in the opinion they had received.

* Purſ. Mem. Part. II. p. 101.

If a woman's friends whiſper about that ſhe is with child, every indifferent perſon takes it for granted: they even impute the natural paleneſs of her complexion, or any diſorder ſhe may accidentally have, to this cauſe, without examining further into the matter.

Let the pureſt virgin in the world go into a foreign country, live in the ſame houſe with a man who is thought to be her huſband; and after a ſlight indiſpoſition, let her ſervants and confident tell, by way of ſecret, to ſome of their intimates, that their miſtreſs is breeding; when ſhe removes to another country, let thoſe ſervants write, informing the ſame intimates, that ſhe is delivered: after all this, I ſhall undertake to get the evidence of all who knew her at her firſt place of reſidence, to prove, that this virgin was evidently with child while ſhe ſojourned among them. The impoſing a ſuppoſititious child, and aſſuming falſe appearances of pregnancy, is one of the laſt crimes that would enter into the head of any perſon to ſuſpect.

About the age of forty-five, the greateſt part of women leave of child-bearing. Upon this occaſion, a very important alteration happens in their conſtitutions. And about this period I have been informed, by ſome of my medical acquaintance, they are liable to various complaints; many of which are ſo extremely ſimilar to the ſymtoms of pregnancy, as frequently to be miſtaken for them, by themſelves and others.

Lady

Lady Jane Douglas, in the year 1748, was paſt the time of life when this critical change uſually takes place; yet to her it ſeems it had not occurred fully while at Aix-la-Chapelle. It is not improbable, that at firſt ſhe may have been deceived by certain ſymptoms which happen at this time; and poſſibly might flatter herſelf with the idea of her actually being with child. She might obſerve the people about her in the ſame error. When ſhe afterwards perceived the foundation of all her hopes give way, ſhe might ſtill be unwilling to loſe the ground ſhe had gained. And thus the firſt idea of the impoſture may have been ſuggeſted to her mind; and taking advantage of the impreſſion her appearance, while in this ſituation, had made upon ſeveral, ſhe might, with the approbation and concurrence of Sir John and Mrs. Hewit, reſolve to procure by art what ſhe was refuſed by nature.

This ſuppoſition will account for a remarkable circumſtance, which has been obſerved in the defendant's proof, of the appearances of pregnancy, viz. That all theſe ſymptoms were ſtronger at Aix-la-Chapelle than they were a month or ſix weeks after at Rheims.

Let us now conſider a little more minutely the proof upon both ſides relative to the pregnancy; on which the defendant's council, from want of more important or more direct facts, are neceſſitated to lay ſuch weight.

From the witneſſes brought by the defend-

ant,

ant, we receive the moſt diſcordant accounts of Lady Jane's appearances.

Mrs. Hewit had a notion, that a woman's breaſts, during pregnancy, became larger than uſual; accordingly ſhe ſwears, that Lady Jane's became ſo large before ſhe left Aix-la-Chapelle, that many imagined her pregnant with twins *. Madame Negrette again (another witneſs adduced to prove the appearances of pregnancy) had ſome how or other taken an opinion, that the breaſts of a woman in this ſituation diminiſhed; and accordingly ſhe ſwears, that Lady Jane's were more hollow than uſual; and for this reaſon ſhe is convinced that ſhe was with child †.

Mrs. Hewit, when ſhe firſt informed Madame Negrette, that Lady Jane was with child, to make the thing more credible, told her, that Lady Jane had ſuffered a miſcarriage in Holland ‡. It may be obſerved, that when witneſſes have not truth for their guide, they are very liable to fall into one difficulty when they endeavour to ſhun another. Mrs. Hewit did not conſider, that if Lady Jane had ever had a miſcarriage before, this rendered her long journey from Aix-la-Chapelle to Paris ſtill more unaccountable and deſperate. But Iſabel Walker, on the other hand (who did not know that Mrs. Hewit had told this ſtory) poſitively ſwears, That Lady Jane had no miſcarriage while abroad,

* Mrs. Hewit's depoſition, Service, p. 11. C.
† Def Proof, p. 497. E.
‡ Ibid. p. 499. E.

but one, which happened long after this, at Rheims *.

I muſt obſerve, by-the-bye, that the number of Lady Jane's miſcarriages has been ſo exorbitantly multiplied, that the defendant's council ſeem to have been aſhamed of their frequency, and ſtrive to reduce them all to one good ſolid miſcarriage †: but it unluckily happens, that the rejected miſcarriages are equally well aſcertained as that which is adopted; and this incident in the defendant's proof naturally ſuggeſts to us this reflection: Since there has been a proof of miſcarriages now acknowledged to be falſe, is not the proof of the pregnancy equally ſubject to fallacy?

Let us conſider a little the account given of that miſcarriage which they have ſelected from the others as moſt credible, and beſt atteſted. It is that which they ſay happened at Rheims within a few months after Lady Jane's return from Paris. It is chiefly ſupported by the evidence of Mrs. Hewit, Iſabel Walker, and Madame Mangin, the nurſe who was brought from Dammartin to nurſe the defendant at Rheims. This unfortunate nurſe was afterwards reduced, before the death of her huſband, to keep ſwine in the fields; and when the friends of the defendant were, in the courſe of their inveſtigations, led to Sedan, they found this woman, almoſt quite naked,

* Def. Pr. p. 368. B.
† Def. Mem. p. 84. et ſeq. and p. 89.

as

as ſhe herſelf acknowledges *. A moſt particular and amazing evidence ſhe has given.

Mrs. Hewit, in a letter to Mrs. Hepburn in December 1748, wrote immediately after this favourite miſcarriage is ſaid to have happened, ſays, that Lady Jane was then ten weeks gone with child; and that the miſcarriage was occaſioned by a twiſt Lady Jane got in her back in ſlipping her foot, returning from a viſit to Lady Wigton's †. Iſabel Walker depoſes, That ſhe ſaw the conception, which was not formed into any ſhape, ſo as to be diſtinguiſhable ‡. The phyſicians examined on this point declare, that the natural ſize of a conception of three months is about the bulk of a hen's egg, or between an inch and an half to three inches long ‖. But Mangin, the nurſe, roundly ſwears, that ſhe examined this fœtus with great attention and curioſity, turned it round and round with a little ſtick, and diſcovered it to be a male child, ſeven or eight inches long **.

What an immenſe pity that this ſurpriſing boy was loſt! He would have been equal to two at leaſt; the common ſize of a fœtus of his age being two or three inches, while he was ſeven or eight. If he had retained the ſame proportion above ordinary men, that he had over ordinary fœtus's, by this time he would

* Def. Pr. p. 601. F.
† Service, p. 33. C.
‡ Def. Pr. p. 368. B.
‖ Purſ. Pr. p. 491. G. and 493. E.
** Def. Pr. p. 597. C.

have been of more than Patagonian ſize.—Alas! that fatal viſit to Lady Wigton!

As theſe ſtories of the miſcarriages were told at different times, and occaſionally, to quiet the doubts of different people, a wonderful diſcrepancy may be obſerved in the accounts given of them. But to return to the pregnancy:

Mrs. Hewit and Iſabel Walker deſcribe Lady Jane as ſo large and bulky that ſhe could hardly walk about; when ſhe went to bed, at Aix-la-Chapelle, they were obliged to give her the aſſiſtance of a footſtool to aſſiſt her to ſtep into it. They further depoſe, That in the journey from Aix-la Chapelle to Rheims, Lady Jane was ſo exceedingly unwieldy, that they were under a neceſſity of getting her lifted in and out of the coach *.

Lady Wigton and Mr. Fullarton of Dudwick, other two of the defendant's witneſſes to the pregnancy, declare, they ſaw nothing uncommon or remarkable in Lady Jane's perſon; nor did it enter into their heads ſhe was with child, till Mrs. Hewit informed them; and then they were very happy to hear it. Monſ. Guenet the notary, who, during the courſe of two days journey, accompanied Lady Jane from Charleville to Rheims in June 1748, and the paſſengers in the ſtage-coach who accompanied her during three days from Rheims to Paris, within a few days of her pretended delivery,

* Service, p. 18. E. and 19. E.

depoſe

depoſe not only that Lady Jane went in and out of the coach in the ſame manner as the other paſſengers, but that they neither perceived nor ſuſpected her being with child *. How does all this agree with the exaggerated deſcription given by Mrs. Hewit and Iſabel Walker of the appearances of the ſame woman at the very ſame time, or at a more early period? Witneſſes who differ ſo widely in their accounts of the external figure, which every body who had eyes might judge of with certainty, cannot be much depended on in their opinions of what was within, and not to be aſſertained by the moſt accurate and experienced.

Many more inſtances of diſagreement are to be met with in the accounts given of the appearances of pregnancy, by the witneſſes ſworn to ſupport it; and every reaſon given by them, upon which they founded their opinion, will upon trial be found trivolous, inconcluſive, or equivocal.

Among others brought by the defendant to prove this abſtruſe fact, I was a good deal ſurpriſed to find no fewer than four nuns †.

I have heard of a jury of matrons being ſummoned to aſcertain a pregnancy; but I dare venture to affert this is the firſt inſtance wherein a jury of nuns were called for the ſame purpoſe. However, the nuns find leſs difficulty in determining the point than the

* Purſ. Pr. p. 897. p. 914. E, and 917. B.

† Def. Pr. p. 478.

matrons, who on ſuch occaſions commonly declare *ignoramus*, even after uſing indelicate methods of aſcertaining the fact.

The whole evidence of the pregnancy amounts to this: That ſeveral people who ſaw Lady Jane, from the month of March 1748 till the 10th of July, imagined ſhe was with child. Before the month of March there was no notice taken of Lady Jane's being with child, out of her own family. So late as February 1748, Lady Jane expreſsly denies her marriage to Lady Catharine Wemyſs; and begs of her, when ſhe returns to England, to contradict this report *. It is not probable that Lady Jane would have concealed her marriage, or made this requeſt to Lady Catharine, if at that time there had been any appearances of pregnancy. — Theſe did not advance in the common gradual manner, but ſtarted up all at once, ſome time in the month of March. — Now, from this period, till the ſame 10th of July, there were alſo many people who ſaw Lady Jane, that imagined ſhe was not with child.

I acknowledge, that an affirmative proof of a plain fact is, *cæteris paribus*, ſtronger than a negative proof. But certainly a negative, in matters of mere opinion, is of equal force with an affirmative When one ſet of witneſſes ſwear they heard a perſon, upon a particular occaſion, uſe a treaſonable expreſſion, I

* Introd. to Purſ. Mem. p. 6.

own

own this is a ſtronger proof of the fact, than another ſet of witneſſes making oath that they did not hear theſe expreſſions, is of the contrary; becauſe the fact cannot be falſe without the firſt witneſſes being perjured, whereas it may be true although the ſecond ſpoke truth. But if one witneſs ſwears, that from the appearance of his countenance he *imagined* the perſon a little fluſtered with liquor when he uttered the treaſon; and another makes oath, that from the ſame appearance of his countenance, he *believed* him perfectly ſober, and not in the leaſt fluſtered, the negative opinion here is certainly as good as the affirmative.

In the ſame manner, when we find one ſet of witneſſes declaring, that in their opinion a woman was with child at a certain time, and another ſet ſwearing they did not think her with child at that time, ſurely thoſe who ſupport the negative, *cæteris paribus*, deſerve as much credit as their opponents.

Mrs. Hepburn and others have ſworn they imagined Lady Jane was with child; and therefore, ſay the defendant's council, Lady Jane muſt have been with child, otherwiſe Mrs. Hepburn, and all the others who ſwear to the ſame effect, muſt be perjured.

This however is a very wrong ſtate of the caſe.—For Mrs Hepburn is not perjured though Lady Jane was not with child; ſhe and the reſt are perjured only if they did not *believe* that Lady Jane was with child.

The

The plaintiffs might with equal juſtice argue, that Lady Jane was certainly not with child : for if ſhe was, the following perſons, who all ſaw her at the period in queſtion, muſt be perjured ; for they have directly ſworn that they did not believe her at that time to be with child ; Governor Wemyſs, Lady Catharine Wemyſs, Monſ. Guenet, Monſ. Andrieux, Mademoiſelle Hibert, Madame Provoteau, Madame Therez Sautré, who took Lady Jane's meaſure, and made her cloaths, at Rheims ; Madame Perret Sautré, General Maclean, who handed Lady Jane into the ſtage-coach, when ſhe left Rheims to go to Paris ; Madame Vatry, Madame Fevre her maid, and Madame Audry, all of whom were in the coach with Lady Jane during this long journey ; yet neither they nor the other paſſengers ever heard her complain of fatigue or indiſpoſition, or ever once ſuppoſed her to be with child * : alſo Monſ. and Madame Godefroy, in whoſe houſe Lady Jane remained, by the defendant's acknowledgement, for four days, that is, till within two days of the ſuppoſed delivery.

Upon the whole, if we candidly weigh every circumſtance, we ſhall find, that though there is upon the part of the defendant a proof of appearances of pregnancy, in ſo far as that ſome perſons, who ſaw Lady Jane at particular periods, thought her pregnant ; yet the proof brought, even of theſe appearances, is

* Purſ. Mem. Part II. p. 110.

extremely

extremely defective, and inconſiſtent with the notion of a real pregnancy; the progreſs whereof is gradual, and the appearances and conduct of the perſon really pregnant are generally ſuch as leaves little room for diverſity of opinion, as to the ſtate of that perſon.

In the preſent caſe, the moſt of the witneſſes who believed the matter when it was told them, never took the notion in their heads till Mrs. Hewit, or her emiſſaries, had given the hint: whereas the others, who had depoſed they did not perceive Lady Jane to be with child, were left to the freedom of unbiaſſed opinion; for there was no body to whiſper about, that Lady Jane was not with child.

If appearances of pregnancy are taken as proofs of the fact; and if the ſimple acknowledgment of a child is to be ſuſtained as an uncontrovertible proof, that this child is in reality the offspring of the man and woman who adopt him; then the moſt dangerous crime to ſociety may be performed with perfect ſafety, and a man's eſtate may be ſtolen with as much facility as his handkerchief. It is eſtabliſhing this for a maxim, That the commiſſion of the crime of *ſuppoſitio partus* is an abſolute proof that it has not been committed.

I HAVE now endeavoured to give a general view of the real merits of this celebrated cauſe, which makes ſo much noiſe in the world; and have mentioned thoſe things which made the

greateſt impreſſion on my own mind. But ſtill I hold it to be almoſt impoſſible for any man to attain a thorough knowledge of this cauſe, without peruſing attentively the memorials which have been wrote upon it. No abridgement can ſupply the place of them, in a cauſe of this nature, where the conviction upon the one ſide or the other depends upon tracing a great variety of circumſtances, and following out a juſt train of reaſoning.

The ſketch I have given of ſome of the principal circumſtances, muſt however be ſufficient to ſhew the folly and madneſs of the vulgar in that part of the kingdom where the cauſe was ſolemnly decided laſt ſummer. From the blind zeal of the mob, in favour of the defendant, one would be apt to conclude, that the more extraordinary, marvellous, and incredible, any ſtory is, the more greedily and eaſily it is ſwallowed; and yet, if one had been to reaſon *a priori* in this matter, it would have been more natural to imagine, that a ſtory ſo improbable as Lady Jane Douglas's delivery of twins, in the fifty-firſt year of her age, attended with ſuch a variety of extraordinary and ſuſpicious circumſtances of conduct, and reſting upon the faith of accounts given by the accuſed perſons, compoſed of a bundle of inconſiſtencies and contradictions, would have fallen to pieces of itſelf, upon the ſimple recital.

With the ignorant multitude, the reverſe of this however happened. What the poet has obſerved

obſerved in former times, happened alſo here:

——————— " It was
" Not weigh'd or winnow'd by the multitude,
" But ſwallow'd in the maſs, unchew'd and
" crude."

To ſuch an exceſs of folly and madneſs were matters carried in this conteſt, that immediately before, and during the time of the deliberations of the court, pamphlets were diſperſed, containing partial accounts of the defendant's cauſe, and pointing out evidently to the judges which ſide of the queſtion would be the moſt popular for them to adopt. It went ſo far as to put ſpeeches into the mouths of ſome of the judges upon that occaſion: and no ſooner was the final decree pronounced, than the mob, who favoured the defendant's cauſe, gave ſome very daring inſtances of their diſpleaſure.

Incendiary letters were ſent to the Lord Preſident of the court, threatening to murder him, and to burn his houſe.

He had become in a particular manner obnoxious to the partiſans of the defendant, becauſe they had all along imagined that he favoured their cauſe; and when they found their miſtake, their rage was equal to their diſappointment.

This judge, who is a man of ability, ſpirit, and integrity, had, upon a former occaſion, in a queſtion entirely different from the preſent, given his caſting vote in favour of Mr.

Douglas, and decreed to him the poſſeſſion of the Duke of Douglas's eſtate. Even after the queſtion of his birth was brought into court, and during the whole dependence of the ſuit, he was maintained in that poſſeſſion, from a very laudable motive, mentioned from the chair, That the defendant might be amply ſupplied with the means of making out his defence, and of diſcovering every fact and circumſtance that could tend to his advantage. From this indulgence, which was chiefly owing to the Lord Preſident, and from the ſtrict attention he gave to the intereſts of the defendant, in all the preliminary ſteps of the cauſe, ſo as to ſecure a fair trial to him, many of that party formed an opinion, which they endeavoured to ſpread, that he would certainly give his voice for the defendant in the queſtion of his birth.

Convinced of this, they cried him up as the greateſt judge who had ever filled that chair; diſtinguiſhed for diſpatch, candour, and penetration; poſſeſſed of a mind more elevated than his rank, and more independent than his fortune. In ſhort, they thought him partial to the defendant, and proclaimed him the moſt impartial of judges.

No ſooner was it known, that he had declared from the bench his perfect conviction, that the defendant was not the ſon of Lady Jane Douglas, than all thoſe tongues which had been ſo rhetorical in his praiſe, were as loud in abuſe; and amongſt the vulgar zealots of the party, every ſlander was thrown out againſt him

him which the heart of malice could invent, or the head of folly believe.

Their calumny and praiſe were equally diſregarded by the perſon on whom they were ſo liberally beſtowed: conſcious of his own integrity, nothing could make him deviate from the ſtrait path of juſtice.

Impartial byſtanders, unconnected with either party, reaſoned very differently from the vulgar; but their voices were little heard amidſt the uproar of the mob.

Let me, however, do juſtice to the judicious and moſt valuable part of ſociety, though perhaps not the moſt numerous.

Thoſe who did not ſuffer themſelves to be carried away by vulgar prejudices, felicitated themſelves and their country upon the deciſion of this cauſe, in many reſpects. It ſhut the door againſt the commiſſion of ſuch frauds hereafter; whereas a deciſion given the other way, would have inſured the ſucceſs of every married couple who choſe to go to a foreign country to pick up children, and afterwards to produce them as their own, for the purpoſe of defrauding true heirs of their rights.

It was obvious, that if the defendant carried his cauſe, it muſt have been upon this principle, That he was acknowledged by thoſe who called themſelves his parents; and upon the ſame principle, the courts of juſtice muſt have admitted the title of every child brought from foreign parts, whom a huſband and wife had been pleaſed to acknowledge for their child, even

although

although they gave no rational account of the circumſtances attending the birth; nay though the account given by them ſhould be loaded with abſurdities and contradictions, and ſupported by falſhood and forgery.

But, in the approbation beſtowed upon the judgment of the court of ſeſſion, by the moſt judicious and impartial, further conſiderations were taken into view.

They perceived with pleaſure, that there were judges of ability, firmneſs, and integrity, in the ſupreme court of juſtice in Scotland, whom neither popular clamour, nor threats, nor careſſes, could influence in their determinations. They perceived, that theſe ſame judges would not only have been certain of the applauſe of the multitude, if they had voted in favour of the defendant, but that they had a real feeling of compaſſion for his unfortunate ſituation. To ſtruggle againſt theſe natural feelings, and to adhere to the ſacred rules of juſtice, without which ſociety cannot be maintained, is the trueſt teſt of virtue, and the perfection of the character of a judge.

Every humane heart muſt compaſſionate the diſagreable ſituation the defendant is in. The ſeverity of a diſappointment, which daſhes him from all his expectations, joined to his perſonal good qualities, have intereſted more people upon his ſide, than the arguments which have been brought to ſupport his pretenſions.

Though convinced of his merit, I own, I cannot carry my partiality the length of ſome, who

who are not aſhamed to ſay, they wiſh he may continue to poſſeſs the eſtate, at the ſame time they are convinced he is not the ſon of Lady Jane Douglas. This indeed is being exceedingly liberal at very little expence. I would be glad, however, to ſee ſome of thoſe generous equitable perſons yield up but one half of their own fortunes, or any of their rights of blood, to the firſt deſtitute young man who can be found of equal merit with the defendant.

In this liſt I do not comprehend his chief friend and warmeſt protectreſs. Her behaviour has been uniformly diſintereſted, and founded upon a complete conviction, that he was the real ſon of the perſons who adopted him. I therefore could never join thoſe prudent and cold-hearted people who blamed the warm exertions ſhe made in his favour, which to me were ſo many proofs of the goodneſs of her heart.

As little could I join with the zealots on the other ſide, who vent their ridiculous ſpleen againſt the guardians of the Duke of Hamilton, as if they had acted invidiouſly and unfairly in this conteſt; nor would ſuch a ſentiment merit attention, if in a ſummary of the ſpeeches and determinations of the Lords of Seſſion lately publiſhed at London, inſinuations of this nature had not been put into the mouths of ſome of the judges themſelves.—This is a ſufficient proof that this publication is not genuine. It makes ſome of the judges aſſert, that the raiſing an action before the criminal

minal court of the parliament of Paris, was as blame-worthy as the forgery of the four letters attributed to La Marr.

It is impoſſible that any judge could utter ſuch a ſentiment; to put upon the ſame level that which at worſt was an irregularity or error in point of procedure, with one of the blackeſt crimes, and for which the laws of all nations have appointed the moſt ſevere puniſhment. It is to confound from the ſeat of judgment itſelf the very idea of guilt and innocence.

Every man well informed of the particulars, muſt be convinced, that all the cry which was ſo induſtriouſly raiſed againſt the action before the Parliament of Paris, was merely a piece of affectation on the part of the defendant; that it was not only harmleſs and inoffenſive in itſelf, but that if the truth had been on his ſide, that action could not have failed to have aided him, and to have confounded the meaſures of his opponents *.

An attempt was once made to have the whole witneſſes who were examined in the French action diſqualified from giving evidence upon the commiſſion ſent from Britain; but the juſtice of the Houſe of Peers would not permit ſuch an attempt to ſucceed.

I own, I could never ſee any juſt cauſe of ſuſpicion againſt any witneſſes, becauſe they had been called and examined in a regular action

* Sequel of the Purſuers Memorial, from p. 27. to p. 53. where the effects of the Tournelle and Monitoire are fully ſtated.

before

before a court, under whoſe juriſdiction they live, and which they could not diſobey, without being ſubject to puniſhment.

The inhabitants of Great Britain are not ſo illiberal as to ſuppoſe that juſtice is confined to this iſland alone, or to imagine that the laws and eſtabliſhments of France, by which ſo many millions of people have been governed for ages, are peculiarly adapted for perverting, inſtead of promoting juſtice.

But clamour has gone ſuch lengths in this cauſe, as, for the ſake of the defendant, to arraign the whole eſtabliſhments of juſtice in France, one of the beſt-governed kingdoms in the world. The parliament of Paris reſpects the tribunals in Britain, and is reſpected by them. It is too well known over Europe to be hurt by ſuch partial and illiberal ſentiments. The reproach ariſing from them muſt recoil on their authors.

It has been pretended, that the Tournelle action being commenced in France, was what prevented Sir John Stewart from going over to that country along with the council, who were firſt ſent on the part of the defendant.—There is in truth great need for a little colouring for his remaining at home, when there was ſo much occaſion for his preſence abroad.

If they had ſent all the lawyers in Britain over to France, they could not have been of half the ſervice in diſcovering the houſe where Lady Jane was delivered, and the houſes where ſhe lodged in November 1749, as Sir John

himſelf. He might have remembered places when he ſaw them again, which before had eſcaped his memory; and, when upon the ſpot, could have pointed out ſome perſon, or recollected ſome circumſtance, which would have evinced his veracity, and eſtabliſhed his innocence, to the ſatisfaction of his friends, and the confuſion of his enemies.

Is it to be credited, that the ſuit before the parliament of Paris could have terrified a father, conſcious of innocence, from appearing in defence of his own honour, and of the fortune and happineſs of his ſon?

Such caution would have appeared ſo puſillanimous, ſo pitiful in every reſpect, that (as was already hinted with regard to Lady Jane) it is not more diſgraceful for Sir John to have committed the crime of which he is accuſed, than to have diſplayed ſo much deſpicable timidity. —But indeed, had he been conſcious there was no delivery, and that he could point out no perſon, circumſtance, or place, which might lead to aſcertain the birth, it would have required amazing firmneſs of mind and countenance to have gone to France.

The beſt-judged and moſt ingenious device that could be invented for palliating his conduct, was to raiſe the cry againſt the forms of proceeding in France, and to repreſent the Tournelle and the Monitoire, as engines calculated to oppreſs Sir John and his ſon, tremendous and partial as the court of inquiſition itſelf.

The

The Monitoire, publiſhed at Paris by the authority of the parliament and church, has been laid hold of as a grievous cauſe of complaint: for what reaſon, I cannot underſtand; becauſe, if there had been a real delivery, no expedient could have been contrived that would have ſo probably diſcovered thoſe valuable perſons, Le Brun and La Marr, and brought the witneſſes to appear.

By the Monitoire, all perſons were exhorted to appear, and tell the truth, from motives of conſcience; and there was no reward annexed to any diſcovery they could make. But when one hears the clamour the defendant's council have raiſed againſt it, one is ready to imagine, that the Monitoire injoins all perſons to come and perjure themſelves, under the penalty of eternal damnation.

Inſiſting upon things of this nature, only ſerves to ſhew how little ſolid argument there is on that ſide of the queſtion. If the defendant's pretenſions had been founded on truth, what probability, what poſſibility was there, that in the courſe of ſo long and ſo diligent a ſcrutiny, no ſingle circumſtance ſhould turn out in his favour; and that he ſhould not have been able to bring ſatisfactory evidence of any one eſſential particular relating to the delivery?

On the contrary, the more the thing has been examined, the more additional proofs have been diſcovered in favour of the plaintiffs. Every new circumſtance has formed a

new preſumption of the impoſture. You will find this inſiſted upon, and proved, in the plaintiffs memorial * ; a performance which will ſerve as a laſting monument of ability, preciſion, and candour.

All that the guardians of the Duke of Hamilton could get by commencing this action, was the approbation of their own conſciences, for performing a duty which their ſituation required. They did not begin it till the falſehoods of the proofs adduced in the ſervice was certain, and that they were fully convinced of the impoſture. To imagine they have attempted to ſet aſide this ſervice, while they thought the defendant the ſon of Lady Jane Douglas, and, by fabricated proofs, to overturn a real fact, is to ſuppoſe them at once the moſt wicked and the moſt abſurd of men.

The delivery of a woman of Lady Jane Douglas's ſtation, of two boys, in the city of Paris, muſt have been attended with ſuch a number of concomitant circumſtances, leading to truth, that the plaintiffs would have been ſoon confounded by ſome of them, and forced to give up their cauſe: or, if they had proceeded, they muſt have plunged deeper and deeper every ſtep they made; and would have been at length intangled, beyond the poſſibility of retreat, to their own ſhame, and the deriſion of their opponents.

* Purſ. Mem. Concluſion, p. 1. *& ſeq.*

Inſtead

Inſtead of which they have gradually advanced, by ſmooth, natural, and honourable roads, to a complete diſcovery of the impoſture. The facts they found upon are uncontrovertible. The defendant ſeldom diſputes them: he only draws different inferences from the ſame facts *.

Let thoſe wiſe and charitable people, who are able to believe that the greateſt of all villainies, and the greateſt of all abſurdities, has been attempted by the plaintiffs in this cauſe, only remember, that though *witneſſes may*, yet *circumſtances cannot* be corrupted.

In this cauſe ſome people have a wonderful genius for believing the moſt abſurd ſtories. Thoſe who wiſh to accompliſh themſelves in that way may endeavour to anſwer the following queries in the affirmative.

Did the plaintiffs bribe Lady Jane Douglas to leave Aix-la-Chapelle in the ſeventh month of her pregnancy, to undertake diſtant and dangerous journies, and to go from Rheims to Paris within eight days of her delivery?

When the aſſiſtance of her maids was moſt neceſſary, did they bribe Lady Jane to leave them at Rheims, and to continue at Paris without any ſervant to attend her before or after delivery?

Did they bribe Lady Jane to lodge at Paris, in the houſe of a woman, of whoſe exiſtence, houſe, and family, no traces are left? And

* Concluſion of Purſ. Mem. p. 6, 7, 8, 9.

did

did they, in the year 1748, corrupt the officers of police and capitation to omit in their records every thing that might lead to the diſcovery of Madame Le Brun?

Did they bribe Sir John and Lady Jane never to conſult, during the whole courſe of the pregnancy, with any phyſician, ſurgeon, or midwife?

Did they bribe them at laſt to truſt Lady Jane's delivery to a wandering obſcure ſurgeon, accidentally found in a garden at Paris, who durſt not reveal where he lived, and whom no mortal but themſelves ever ſaw?

Have the guardians of the Duke of Hamilton been able, by bribery, to preſerve the exiſtence or remembrance of every other perſon whom Lady Jane met and converſed with while abroad, excepting thoſe who were witneſſes to her delivery?

Did they bribe Sir John Stewart and Mrs. Hewit not to mention the birth for twelve days after the 10th of July; though Sir John wrote letters on the very day, and Mrs. Hewit on the day after it is ſaid to have happened?

Did they bribe Sir John to carry no acquaintance to ſee Lady Jane while at Paris, to *conceal* himſelf and family all the time he was there, and to date his letters from Rheims, diſguiſing from their friends in Britain the journey to Paris?

Did they prevail on Lady Jane to carry on the ſame plan of deceit, by falſely dating from Rheims

Rheims the firſt accounts ſhe ſent the Duke of Douglas of the delivery, and by writing a variety of letters, conveying the notion of her having been delivered at Rheims?

Did they bribe Lady Jane not to viſit her ſickly infant from the day of his birth, and to prevent any of her own or her huſband's friends from ſeeing him for ſixteen months after his birth?

Did they bribe Sir John's right truſty and well-beloved Pierre La Marr to write him no letters concerning this child during all theſe ſixteen months? Or did they bribe Sir John and Lady Jane to deſtroy all theſe letters, though early and often acquainted of the ſuſpicions about the delivery?

Did they induce Sir John and Mrs. Hewit, firſt to place the ſcene of the delivery in the houſe of Michel? to mention Madame Michel, and her daughter Marie, as witneſſes? and upon the falſehood of this account being detected, did they recommend to them to transfer the delivery to the houſe of Le Brun?

Did they bribe Sir John and Lady Jane to ſend to Aix-la-Chapelle for proofs of her being the real mother of theſe children? And was it owing to the plaintiffs that Sir John and Lady Jane avoided applying to any perſon at Paris for authentic proofs of the delivery?

Did they bribe one foreigner to ſteal a child from Mignon in July 1748, and another to

play

play the ſame trick to Sanry in November 1749?

Did they prevail on Sir John and Lady Jane to repair to Paris preciſely at theſe two critical periods?

Did they bribe Godefroy to fabricate his houſehold and police books, and to open an account, beginning on the evening of July 4. and ending the 14th, exactly correſponding in all its circumſtances to an account raiſed for Sir John, Lady Jane, and Mrs. Hewit? And if they did bribe him to fabricate this account, did they at the ſame time alſo direct him to leave a blank for the names?

Did the guardians for the Duke of Hamilton induce Lady Jane Douglas to abſtain from marriage till the forty-eighth year of her age? Did they prevail upon her to abſtain from pregnancy till ſhe had lived half a century?

Did they bribe the confidential Mrs. Hewit to ſwear falſely in ſupport of the delivery, and thus to aid the plaintiffs cauſe?

And, laſtly, Did they bribe Sir John and Lady Jane to avoid every authentic proof of the much-ſuſpected delivery, and to commit *forgery* for ſupplying the want of real proofs of this moſt extraordinary and incredible fact?

If any perſon can believe all this, that perſon has no right to doubt, that the defendant is the ſon of Lady Jane Douglas.

I am, *&c.*

October 1767.